

STATE OF KANSAS

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**2014 SESSION LAWS  
OF KANSAS  
VOL. 1**

**INCLUDES 2013 SPECIAL SESSION**

[Prepared in accordance with K.S.A. 45-310]

PASSED DURING THE 2013 SPECIAL SESSION AND  
THE 2014 REGULAR SESSION OF THE LEGISLATURE OF  
THE STATE OF KANSAS

Date of Publication of this Volume  
July 1, 2014



**Publisher's Note:**

These volumes consist of two separate sections. The first section contains information from the 2013 Special Session of the Kansas Legislature. The second section contains information from the 2014 Session of the Kansas Legislature. A separate index was compiled for each session.



## AUTHENTICATION

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STATE OF KANSAS  
OFFICE OF SECRETARY OF STATE

I, Kris W. Kobach, Secretary of State of the state of Kansas, do hereby certify that the printed acts contained in this volume are true and correct copies of enrolled laws or resolutions which were passed during the 2013 special session of the Legislature of the State of Kansas, begun on the 3rd day of September, A.D. 2013, and concluded on the 4th day of September, A.D. 2013; and I further certify that all laws contained in this volume pertaining to the 2013 special session which took effect and went into force on and after publication in the *Kansas Register* were so published (on the date thereto annexed) as provided by law.

Given under my hand and seal this 1st day of July, A.D. 2014.

KRIS W. KOBACH,  
*Secretary of State*

(SEAL)

## AUTHENTICATION

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STATE OF KANSAS  
OFFICE OF SECRETARY OF STATE

I, Kris W. Kobach, Secretary of State of the state of Kansas, do hereby certify that the printed acts contained in this volume are true and correct copies of enrolled laws or resolutions which were passed during the 2014 regular session of the Legislature of the State of Kansas, begun on the 13th day of January, A.D. 2014, and concluded on the 30th day of May, A.D. 2014; and I further certify that all laws contained in this volume which took effect and went into force on and after publication in the *Kansas Register* were so published (on the date thereto annexed) as provided by law; and I further certify that all laws contained in this volume will take effect and be in force on and after the 1st day of July, A.D. 2014, except when otherwise provided.

Given under my hand and seal this 1st day of July, A.D. 2014.

KRIS W. KOBACH,  
*Secretary of State*

(SEAL)

## EXPLANATORY NOTES

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Material added to an existing section of the statute is printed in italic type. Material deleted from an existing section of the statute is printed in canceled type.

In bills which contain entirely new sections together with amendments to existing sections, the new sections are noted with the word "new" at the beginning of such sections.

An enrolled bill which is new in its entirety is noted with an asterisk (\*) by the bill number and is printed in its original form.

Approval and publication dates are included.

Chapter numbers are assigned chronologically, based on the date the bill is signed by the governor. The bill index, subject index and list of statutes repealed or amended will assist you in locating bills of interest.

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## NOTICE

The price for the Session Laws is set by administrative regulation in accordance with state law. Additional copies of this publication may be obtained from:

Kris W. Kobach  
Secretary of State  
1st Floor, Memorial Hall  
120 S.W. 10th Ave.  
Topeka, KS 66612-1594  
(785) 296-4557

## OFFICIAL DIRECTORY

### ELECTIVE STATE OFFICERS

<i>Office</i>	<i>Name</i>	<i>Residence</i>	<i>Party</i>
Governor .....	<b>Sam Brownback</b> .....	Topeka .....	Rep.
Lieutenant Governor .....	<b>Jeff Colyer, M.D.</b> .....	Overland Park .....	Rep.
Secretary of State .....	<b>Kris W. Kobach</b> .....	Piper .....	Rep.
State Treasurer .....	<b>Ron Estes</b> .....	Wichita .....	Rep.
Attorney General .....	<b>Derek Schmidt</b> .....	Independence .....	Rep.
Commissioner of Insurance ....	<b>Sandy Praeger</b> .....	Lawrence .....	Rep.

### STATE BOARD OF EDUCATION

<i>Dist.</i>	<i>Name and residence</i>	<i>Dist.</i>	<i>Name and residence</i>
1	<b>Janet Waugh</b> , Kansas City	6	<b>Deena Horst</b> , Salina
2	<b>Steve Roberts</b> , Overland Park	7	<b>Kenneth R. Willard</b> , Hutchinson
3	<b>John W. Bacon</b> , Olathe	8	<b>Kathy Busch</b> , Wichita
4	<b>Carolyn L. Wims-Campbell</b> , Topeka	9	<b>Jana Shaver</b> , Independence
5	<b>Sally Cauble</b> , Dodge City	10	<b>Jim McNiece</b> , Wichita

### UNITED STATES SENATORS

<i>Name and residence</i>	<i>Party</i>	<i>Term</i>
<b>Pat Roberts</b> , Dodge City .....	Republican	Term expires Jan. 3, 2015
<b>Jerry Moran</b> , Hays .....	Republican	Term expires Jan. 3, 2017

### UNITED STATES REPRESENTATIVES

(Terms expire January 3, 2015)

<i>District</i>	<i>Name</i>	<i>Residence</i>	<i>Party</i>
First .....	<b>Tim Huelskamp</b> .....	Fowler .....	Rep.
Second .....	<b>Lynn Jenkins</b> .....	Topeka .....	Rep.
Third .....	<b>Kevin Yoder</b> .....	Overland Park .....	Rep.
Fourth .....	<b>Mike Pompeo</b> .....	Wichita .....	Rep.

## LEGISLATIVE DIRECTORY

## STATE SENATE

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<b>Abrams, Steve E.</b> , 6964 252nd Rd., Arkansas City 67005 .....	Rep.	32
<b>Arpke, Tom</b> , 512 W. Iron Ave., Salina 67401 .....	Rep.	24
<b>Baumgardner, Molly</b> , 29467 Masters Court, Louisburg 66053 .....	Rep.	37
<b>Bowers, Elaine S.</b> , 1326 N. 150th Road, Concordia 66901 .....	Rep.	36
<b>Bruce, Terry</b> , P.O. Box 726, Hutchinson 67504 .....	Rep.	34
<b>Denning, Jim</b> , 8416 W. 115th St., Overland Park 66210 .....	Rep.	8
<b>Donovan, Leslie D. (Les) Sr.</b> , 314 N. Rainbow Lake, Wichita 67235 ....	Rep.	27
<b>Faust-Goudeau, Oletha</b> , 4158 Regents Ln., Wichita 67208 .....	Dem.	29
<b>Fitzgerald, Steve</b> , 3100 Tonganoxie Rd., Leavenworth 66048 .....	Rep.	5
<b>Francisco, Marci</b> , 1101 Ohio, Lawrence 66044 .....	Dem.	2
<b>Haley, David</b> , 936 Cleveland Ave., Kansas City 66101 .....	Dem.	4
<b>Hawk, Tom</b> , 2600 Woodhaven Ct., Manhattan 66502 .....	Dem.	22
<b>Hensley, Anthony</b> , 2226 S.E. Virginia Ave., Topeka 66605 .....	Dem.	19
<b>Holland, Tom</b> , 961 E. 1600 Rd., Baldwin City 66006 .....	Dem.	3
<b>Holmes, Mitch</b> , 211 S.E. 20th Ave., St. John 67576 .....	Rep.	33
<b>Kelly, Laura</b> , 234 S.W. Greenwood Ave., Topeka 66606 .....	Dem.	18
<b>Kerschen, Dan</b> , 645 S. 263 West, Garden Plain 67050 .....	Rep.	26
<b>King, Jeff</b> , 1212 N. 2nd St., Independence 67301 .....	Rep.	15
<b>Knox, Forrest</b> , 17120 Udall Rd., Altoona 66710 .....	Rep.	14
<b>LaTurner, Jake</b> , 204 E. Euclid, Pittsburg 66762 .....	Rep.	13
<b>Longbine, Jeff</b> , 2801 Lakeridge Rd., Emporia 66801 .....	Rep.	17
<b>Love, Garrett</b> , P.O. Box 1, Montezuma 67867 .....	Rep.	38
<b>Lynn, Julia</b> , 18837 W. 115th Terr., Olathe 66061 .....	Rep.	9
<b>Masterson, Ty</b> , 1539 Phyllis Ln., Andover 67002 .....	Rep.	16
<b>McGinn, Carolyn</b> , P.O. Box A, Sedgwick 67135 .....	Rep.	31
<b>Melcher, Jeff</b> , 11424 Canterbury Cr., Leawood 66211 .....	Rep.	11
<b>O'Donnell, Michael</b> , 1309 N. High, Wichita 67203 .....	Rep.	25
<b>Olson, Rob</b> , 15944 S. Clairborne St., Olathe 66062 .....	Rep.	23
<b>Ostmeyer, Ralph</b> , Box 97, Grinnell 67738 .....	Rep.	40
<b>Petersen, Mike</b> , 2608 S. Southeast Dr., Wichita 67216 .....	Rep.	28
<b>Petty, Pat</b> , 5316 Lakewood St., Kansas City 66106 .....	Dem.	6
<b>Pilcher-Cook, Mary</b> , 13910 W. 58th Pl., Shawnee 66216 .....	Rep.	10
<b>Powell, Larry</b> , 2209 Grandview Dr. East, Garden City 67846 .....	Rep.	39
<b>Pyle, Dennis</b> , 2979 Kingfisher Rd., Hiawatha 66434 .....	Rep.	1
<b>Schmidt, Vicki</b> , 5906 S.W. 43rd Ct., Topeka 66610 .....	Rep.	20
<b>Shultz, Clark</b> , P.O. Box 731, McPherson 67460 .....	Rep.	35
<b>Smith, Greg</b> , 8605 Robinson, Overland Park 66212 .....	Rep.	21
<b>Tyson, Caryn</b> , P.O. Box 191, Parker 66072 .....	Rep.	12
<b>Wagle, Susan</b> , 4 N. Sagebrush, Wichita 67230 .....	Rep.	30
<b>Wolf, Kay</b> , 8339 Roe, Prairie Village 66207 .....	Rep.	7

## HOUSE OF REPRESENTATIVES

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<b>Alcala, John</b> , 520 N.E. Lake, Topeka 66616 .....	Dem.	57
<b>Alford, J. Stephen</b> , 4179 E. Rd. 19, Ulysses 67880 .....	Rep.	124
<b>*Anthimides, Steven</b> , 2725 S. Mason Terr., Wichita 67216 .....	Rep.	98
<b>Ballard, Barbara W.</b> , 1532 Alvamar Dr., Lawrence 66047 .....	Dem.	44
<b>Barker, John E.</b> , 103 Wassinger Ave., Abilene 67410 .....	Rep.	70
<b>Becker, Steven R.</b> , P.O. Box 384, Buhler 67522 .....	Rep.	104
<b>Boldra, Sue</b> , 2405 General Custer Rd., Hays 67601 .....	Rep.	111
<b>Bollier, Barbara</b> , 6910 Overhill Rd., Mission Hills 66208 .....	Rep.	21
<b>Bradford, John</b> , 125 Rock Creek Loop, Lansing 66043 .....	Rep.	40
<b>Bridges, Carolyn L.</b> , 5219 E. 1st St., Wichita 67208 .....	Dem.	83
<b>Bruchman, Rob</b> , 5016 W. 108th Terr., Overland Park 66211 .....	Rep.	20
<b>Brunk, Steven R.</b> , 8119 E. Champions Ct., Wichita 67226 .....	Rep.	85
<b>Burroughs, Tom</b> , 3131 S. 73rd Terr., Kansas City 66106 .....	Dem.	33
<b>Campbell, Larry L.</b> , 15803 S. Avalon, Olathe 66062 .....	Rep.	26
<b>Carlin, Sydney</b> , 1650 Sunny Slope Ln., Manhattan 66502 .....	Dem.	66
<b>*Carmichael, John</b> , 1475 N. Lieunett, Wichita 67203 .....	Dem.	92
<b>Carlson, Richard</b> , 26810 Jeffrey Rd., St. Marys 66536 .....	Rep.	61
<b>Carpenter, Will</b> , 6965 S.W. 18th, El Dorado 67042 .....	Rep.	75
<b>Cassidy, Ward Michael</b> , 420 E. 2nd, Box 303, St. Francis 67756 .....	Rep.	120
<b>Christmann, Marshall</b> , 816 S. Grand, Lyons 67554 .....	Rep.	113
<b>Claeys, J.R.</b> , 2356 Montclair Dr., Salina 67401 .....	Rep.	69
<b>Clayton, Stephanie</b> , 9825 Woodson Dr., Overland Park 66207 .....	Rep.	19
<b>Concannon, Susan L.</b> , 921 N. Mill St., Beloit 67420 .....	Rep.	107
<b>Corbet, Ken</b> , 10351 S.W. 61st, Topeka 66610 .....	Rep.	54
<b>Couture-Lovelady, Travis</b> , P.O. Box 34, Palco 67657 .....	Rep.	110
<b>Crum, J. David</b> , 2903 Lakeshore Dr., Augusta 67010 .....	Rep.	77
<b>*Curtis, Pam</b> , 322 N. 16th St., Kansas City 66102 .....	Dem.	32
<b>*Davis, Erin</b> , 12018 S. Clinton St., Olathe 66061 .....	Rep.	15
<b>Davis, Paul</b> , 1731 Indiana, Lawrence 66044 .....	Dem.	46
<b>DeGraaf, Pete</b> , 1545 E. 119th, Mulvane 67110 .....	Rep.	82
<b>Dierks, Diana</b> , 1221 Sunrise Dr., Salina 67401 .....	Rep.	71
<b>Doll, John</b> , 2927 Cliff Place, Garden City 67846 .....	Rep.	123
<b>Dove, Willie</b> , 14715 Timber Ln., Bonner Springs 66012 .....	Rep.	38
<b>Edmonds, John</b> , 209 N.E. Ten Rd., Great Bend 67530 .....	Rep.	112
<b>Edwards, George F. (Joe) II</b> , 256 Van Arsdale, Haysville 67060 .....	Rep.	93
<b>Esau, Keith</b> , 11702 S. Winchester St., Olathe 66061 .....	Rep.	14
<b>*Estes, Maynard (Bud) Jr.</b> , 1405 Elbow Bend, Dodge City 67801 .....	Rep.	119
<b>Ewy, John L.</b> , 312 Park St., Jetmore 67854 .....	Rep.	117
<b>Finch, Blaine</b> , 5 S.W. Fairview Dr., Ottawa 66067 .....	Rep.	59
<b>Finney, Gail</b> , 1754 N. Madison Ave., Wichita 67214 .....	Dem.	84
<b>Frownfelter, Stan</b> , 5225 Crest Dr., Kansas City 66106 .....	Dem.	37
<b>Gandhi, Shanti</b> , 5802 Clarion Lakes Way, Topeka 66610 .....	Rep.	52
<b>Garber, Randy</b> , 2424 Timberlane Terr., Sabetha 66534 .....	Rep.	62
<b>Goico, Mario</b> , 1254 N. Pine Grove Ct., Wichita 67212 .....	Rep.	94
<b>Gonzalez, Ramon C. Jr.</b> , 312 Elm, Perry 66073 .....	Rep.	47

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<b>Grosserode, Amanda</b> , 12601 W. 99th St., Lenexa 66215 .....	Rep.	16
<b>Hawkins, Daniel</b> , 9406 Harvest Ln., Wichita 67212 .....	Rep.	100
<b>Hedke, Dennis</b> , 1669 N. Sagebrush St., Wichita 67230 .....	Rep.	99
<b>Henderson, Broderick</b> , 2710 N. 8th St., Kansas City 66101 .....	Dem.	35
<b>Henry, Jerry</b> , 3515 Neosho Rd., Cummings 66016 .....	Dem.	63
<b>Hibbard, Larry</b> , 858 EE 75 Rd., Toronto 66777 .....	Rep.	13
<b>Highland, Ron</b> , 27487 Wells Creek Rd., Wamego 66547 .....	Rep.	51
<b>Hildabrand, Brett</b> , 16820 W. 67th St., #407, Shawnee 66217 .....	Rep.	17
<b>Hill, Don</b> , 1720 Luther, Emporia 66801 .....	Rep.	60
<b>Hineman, Don</b> , 116 S. Longhorn Rd., Dighton 67839 .....	Rep.	118
<b>Hoffman, Kyle D.</b> , 1318 Ave. T, Coldwater 67029 .....	Rep.	116
<b>Houser, Michael</b> , 6891 S.W. 10th St., Columbus 66725 .....	Rep.	1
<b>Houston, Roderick</b> , 4902 Looman, Wichita 67220 .....	Dem.	89
<b>Howell, Jim</b> , 125 E. Buckthorn Rd., Derby 67037 .....	Rep.	81
<b>Huebert, Steve</b> , 619 N. Birch, Valley Center 67147 .....	Rep.	90
<b>Hutton, Mark</b> , 7118 Clearmeadow Ct., Wichita 67205 .....	Rep.	105
<b>Jennings, J. Russell</b> , P.O. Box 295, Lakin 67860 .....	Rep.	122
<b>Johnson, Steven</b> , 10197 S. Hopkins Rd., Assaria 67416 .....	Rep.	108
<b>Jones, Kevin</b> , 416 E. 7th St., Wellsville 66092 .....	Rep.	5
<b>Kahrs, Mark A.</b> , 201 N. Post Oak Rd., Wichita 67206 .....	Rep.	87
<b>Kelley, Kasha</b> , P.O. Box 1111, Arkansas City 67005 .....	Rep.	80
<b>Kelly, Jim</b> , 309 S. 5th, Independence 67301 .....	Rep.	11
<b>*Kiegerl, S. Mike</b> , 2350 Golf Course Rd., Olathe 66061 .....	Rep.	121
<b>Kinzer, Lance Y.</b> , 12549 S. Brougham, Olathe 66062 .....	Rep.	30
<b>Kleeb, Marvin</b> , 14206 Eby, Overland Park 66221 .....	Rep.	48
<b>Kuether, Annie</b> , 1346 S.W. Wayne Ave., Topeka 66604 .....	Dem.	55
<b>Lane, Harold</b> , 2202 S.E. Monroe St., Topeka 66605 .....	Dem.	58
<b>Lunn, Jerry</b> , 14512 Horton, Overland Park 66223 .....	Rep.	28
<b>Lusk, Nancy</b> , 7700 W. 83rd St., Overland Park 66204 .....	Dem.	22
<b>*Lusker, Adam</b> , 452 S. 210th St., Frontenac 66763 .....	Dem.	2
<b>Macheers, Charles</b> , 21704 W. 57th Terr., Shawnee 66218 .....	Rep.	39
<b>*Mason, Les</b> , 108 Arcadian Ct., McPherson 67460 .....	Rep.	73
<b>Mast, Peggy</b> , 765 Road 110, Emporia 66801 .....	Rep.	76
<b>McPherson, Craig</b> , 11911 W. 143rd Terr., Olathe 66062 .....	Rep.	8
<b>Meier, Melanie</b> , 722 Oak St., Leavenworth 66048 .....	Dem.	41
<b>Meigs, Kelly</b> , 7842 Rosehill Rd., Lenexa 66216 .....	Rep.	23
<b>Menghini, Julie</b> , 1207 E. Quincy, Pittsburg 66762 .....	Dem.	3
<b>Merrick, Ray</b> , 6874 W. 164th Terr., Stilwell 66085 .....	Rep.	27
<b>Moxley, Tom</b> , 1852 S. 200 Rd., Council Grove 66846 .....	Rep.	68
<b>O'Brien, Connie</b> , 22123 211th St., Tonganoxie 66086 .....	Rep.	42
<b>Osterman, Lelsie G.</b> , 1401 W. Dallas, Wichita 67217 .....	Rep.	97
<b>Pauls, Janice L.</b> , 101 E. 11th Ave., Hutchinson 67501 .....	Dem.	102
<b>Peck, Virgil Jr.</b> , Box 277, Tyro 67364 .....	Rep.	12
<b>Perry, Emily</b> , 6910 W. 67th St., Overland Park 66202 .....	Dem.	24
<b>Petty, Reid</b> , 201 S. Parkway, Liberal 67901 .....	Rep.	125
<b>Phillips, Tom</b> , 1530 Barrington Dr., Manhattan 66503 .....	Rep.	67
<b>Powell, Joshua</b> , 104 N.W. Redbud Cr., Apt. 8, Topeka 66617 .....	Rep.	50

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<b>Proehl, Richard J.</b> , 510 Pine Ridge Rd., Parsons 67357 .....	Rep.	7
<b>Read, Marty</b> , 18244 Kansas Hwy. 52, Mound City 66056 .....	Rep.	4
<b>Rhoades, Marc</b> , 1006 Lazy Creek Dr., Newton 67114 .....	Rep.	72
<b>Rooker, Melissa</b> , 4124 Brookridge Dr., Fairway 66205 .....	Rep.	25
<b>Rothlisberg, Allan</b> , 113 Byrd, Grandview Plaza 66441 .....	Rep.	65
<b>Rubin, John J.</b> , 13803 W. 53rd St., Shawnee 66216 .....	Rep.	18
<b>Ruiz, Louis E.</b> , 2914 W. 46th Ave., Kansas City 66103 .....	Dem.	31
<b>Ryckman, Ron Jr.</b> , 14234 W. 158th St., Olathe 66062 .....	Rep.	78
<b>Ryckman, Ron Sr.</b> , 503 N. Cedar St., Meade 67864 .....	Rep.	115
<b>Sawyer, Tom</b> , 1041 S. Elizabeth, Wichita 67213 .....	Dem.	95
<b>Schroeder, Don</b> , 708 Charles St., Hesston 67062 .....	Rep.	74
<b>Schwab, Scott</b> , 14953 W. 140th Terr., Olathe 66062 .....	Rep.	49
<b>Schwartz, Sharon</b> , 2051 20th Rd., Washington 66968 .....	Rep.	106
<b>Seiwert, Joe</b> , 1111 E. Boundary Rd., Pretty Prairie 67570 .....	Rep.	101
<b>Sloan, Tom</b> , 772 Hwy. 40, Lawrence 66049 .....	Rep.	45
<b>Sloop, Patricia M.</b> , 1950 S. Webb Rd., HM #121, Wichita 67207 .....	Dem.	88
<b>Suellentrop, Gene</b> , 6813 W. Northwind Circle, Wichita 67205 .....	Rep.	91
<b>Sutton, Bill</b> , 301 W. Westhoff Pl., Gardner 66030 .....	Rep.	43
<b>Swanson, Vern</b> , 1422 5th St., Clay Center 67432 .....	Rep.	64
<b>Thimesch, Jack</b> , 234 N. Henderson, Cunningham 67035 .....	Rep.	114
<b>*Thompson, Kent</b> , P.O. Box 626, Iola 66749 .....	Rep.	9
<b>Tietze, Annie</b> , 329 S.W. Yorkshire Rd., Topeka 66606 .....	Dem.	53
<b>Todd, James Eric</b> , 9812 W. 118th St., Apt. 3, Overland Park 66210 .....	Rep.	29
<b>Trimmer, Ed</b> , 1402 E. 9th, Winfield 67156 .....	Dem.	79
<b>Vickrey, Jene</b> , 502 S. Countryside Dr., Louisburg 66053 .....	Rep.	6
<b>Victors, Ponka-We</b> , P.O. Box 48081, Wichita 67201 .....	Dem.	103
<b>Ward, Jim</b> , 3100 E. Clark, Wichita 67211 .....	Dem.	86
<b>Waymaster, Troy L.</b> , 112 N. Fairview Ave., Luray 67649 .....	Rep.	109
<b>Weigel, Virgil J.</b> , 1900 S.W. Briarwood Dr., Topeka 66611 .....	Dem.	56
<b>Whipple, Brandon J.</b> , 2925 S. Walnut, Wichita 67217 .....	Dem.	96
<b>Wilson, John</b> , 1923 Ohio St., Lawrence 66046 .....	Dem.	10
<b>Winn, Valdenia C.</b> , P.O. Box 12327, Kansas City 66112 .....	Dem.	34
<b>Wolfe Moore, Kathy</b> , 3209 N. 131st, Kansas City 66109 .....	Dem.	36

The Representatives designated with an asterisk were new members during the 2014 Session. They replaced the following members from the 2013 Special Session.

Ed Bideau  
 Nile Dillmore  
 Bob Grant  
 Phil Hermanson  
 Bob Montgomery  
 Mike Peterson  
 Clark Shultz

## OFFICERS OF THE SENATE

<b>Susan Wagle</b> .....	President
<b>Jeff King</b> .....	Vice President
<b>Terry Bruce</b> .....	Majority Leader
<b>Anthony Hensley</b> .....	Minority Leader
<b>Corey Carnahan</b> .....	Secretary
<b>Charles (Nick) Nicolay</b> .....	Sergeant at Arms

## OFFICERS OF THE HOUSE

<b>Ray Merrick</b> .....	Speaker
<b>Peggy Mast</b> .....	Speaker Pro Tem
<b>Jene Vickrey</b> .....	Majority Leader
<b>Paul Davis</b> .....	Minority Leader
<b>Susan W. Kannarr</b> .....	Chief Clerk
<b>Hal Hudson</b> .....	Sergeant at Arms

## LEGISLATIVE COORDINATING COUNCIL

\*Speaker of the House of Representatives: **Ray Merrick**, Stilwell, Chairman

\*President of the Senate: **Susan Wagle**, Wichita, Vice-Chairman

Speaker Pro Tem of the House of Representatives: **Peggy Mast**, Emporia

Senate Majority Leader: **Terry Bruce**, Hutchinson

House Majority Leader: **Jene Vickrey**, Louisburg

Senate Minority Leader: **Anthony Hensley**, Topeka

House Minority Leader: **Paul Davis**, Lawrence

\*During the 2013 Special Session, Senator Wagle was Chairman and Representative Merrick was Vice-Chairman.

## LEGISLATIVE DIVISION OF POST AUDIT

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**Justin Stowe**, Deputy Post Auditor

**Chris Clarke**, Performance Audit Manager

**Julie Pennington**, Financial Compliance Audit Manager

**Rick Riggs**, Administrative Auditor

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**J.G. Scott**, Chief Fiscal Analyst  
**Melissa Calderwood**, Assistant Director for Research  
**Amy Deckard**, Assistant Director for Information Management

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**Jeffrey M. Russell**, Director

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**Gordon L. Self**  
Revisor of Statutes

**Jill A. Wolters**  
First Assistant Revisor

**Bruce W. Kinzie**  
Editor of Statutes

Senior Assistant Revisors

**Nobuko K. Folmsbee**  
**Michael R. Heim**  
**Jason B. Long**  
**Jason W. Thompson**  
**Scott S. Wells**  
**Kenneth M. Wilke** (Retired July 1, 2014)

Assistant Revisors

**Renae Jefferies**  
**Tamera M. Lawrence**  
**Eileen D. Ma**  
**Katherine L. McBride**  
**Nicholas P. Myers**  
**Eunice C. Peters**  
**Charles R. Reimer**  
**Natalie C. Scott**  
**Adam M. Siebers**  
**J. Matthew Sterling**  
**David P. Wiese**  
**Daniel A. Y. Yoza**

**Norman J. Furse**  
Revisor Emeritus

**Chad L. Champney**, Information Systems Administrator  
**Sandra J. Sadowski**, Information Systems Administrator  
**Debbie L. Meador**, Office Manager



# 2013 SPECIAL SESSION LAWS OF KANSAS

## CHAPTER 1

### HOUSE BILL No. 2002

AN ACT concerning crimes, punishment and criminal procedure; relating to sentencing of certain persons to mandatory minimum term of imprisonment of 40 or 50 years; amending K.S.A. 2012 Supp. 21-6620 and 21-6624 and repealing the existing sections.

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

Section 1. K.S.A. 2012 Supp. 21-6620 is hereby amended to read as follows: 21-6620. (a) Except as provided in K.S.A. 2012 Supp. 21-6618 and 21-6622, and amendments thereto, if a defendant is convicted of the crime of capital murder and a sentence of death is not imposed pursuant to subsection (e) of K.S.A. 2012 Supp. 21-6617, and amendments thereto, or requested pursuant to subsection (a) or (b) of K.S.A. 2012 Supp. 21-6617, and amendments thereto, the defendant shall be sentenced to life without the possibility of parole.

(b) *The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed on or after the effective date of this act.*

(1) *If a defendant is convicted of murder in the first degree based upon the finding of premeditated murder, upon reasonable notice by the prosecuting attorney, the court shall determine, in accordance with this subsection, whether the defendant shall be required to serve a mandatory minimum term of imprisonment of 50 years or sentenced as otherwise provided by law.*

(2) *The court shall conduct a separate proceeding following the determination of the defendant's guilt for the jury to determine whether one or more aggravating circumstances exist. Such proceeding shall be conducted by the court before a jury as soon as practicable. If any person who served on the trial jury is unable to serve on the jury for the proceeding, the court shall substitute an alternate juror who has been impaneled for the trial jury. If there are insufficient alternate jurors to replace trial jurors who are unable to serve at the proceeding, the court may conduct such proceeding before a jury which may have 12 or less jurors, but at no time less than six jurors. If the jury has been discharged prior to the proceeding, a new jury shall be impaneled. Any decision of the jury regarding the existence of an aggravating circumstance shall be*

*beyond a reasonable doubt. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such jury. The jury at the proceeding may be waived in the manner provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the jury at the proceeding has been waived, such proceeding shall be conducted by the court.*

(3) *In the proceeding, evidence may be presented concerning any matter relating to any of the aggravating circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and amendments thereto. Only such evidence of aggravating circumstances as the prosecuting attorney has made known to the defendant prior to the proceeding shall be admissible and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the time of the proceeding shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.*

(4) *At the conclusion of the evidentiary portion of the proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations. If the prosecuting attorney relies on subsection (a) of K.S.A. 2012 Supp. 21-6624, and amendments thereto, as an aggravating circumstance, and the court finds that one or more of the defendant's prior convictions satisfy such subsection, the jury shall be instructed that a certified journal entry of a prior conviction is presumed to prove the existence of such prior conviction or convictions beyond a reasonable doubt.*

(5) *If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and amendments thereto, exist, the jury shall designate, in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found. If, after a reasonable time for deliberation, the jury is unable to reach a unanimous sentencing decision, the court shall dismiss the jury and the defendant shall be sentenced as provided by law. In nonjury cases, the court shall designate, in writing, the specific circumstance or circumstances which the court found beyond a reasonable doubt.*

(6) *If one or more of the aggravating circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and amendments thereto, are found to exist beyond a reasonable doubt pursuant to this subsection, the defendant shall be sentenced pursuant to K.S.A. 2012 Supp. 21-6623, and amendments thereto, unless the sentencing judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose the sentence specified in this paragraph. If the sentencing judge does not impose the mandatory minimum term of imprisonment required by K.S.A. 2012*

*Supp. 21-6623, and amendments thereto, the judge shall state on the record at the time of sentencing the substantial and compelling reasons therefor, and the defendant shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.*

*(c) The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed prior to the effective date of this act.*

*(1) If a defendant is convicted of murder in the first degree based upon the finding of premeditated murder, upon reasonable notice by the prosecuting attorney, the court shall conduct a separate sentencing proceeding in accordance with this subsection to determine whether the defendant shall be required to serve a mandatory minimum term of imprisonment of 40 years or for crimes committed on and after July 1, 1999, a mandatory minimum term of imprisonment of 50 years or sentenced as otherwise provided by law.*

*(2) The sentencing proceeding shall be conducted by the court before a jury as soon as practicable. If the trial jury has been discharged prior to sentencing, a new jury shall be impaneled. Any decision to impose a mandatory minimum term of imprisonment of 40 or 50 years shall be by a unanimous jury. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such jury. The jury at the sentencing proceeding may be waived in the manner provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the jury at the sentencing proceeding has been waived, such proceeding shall be conducted by the court.*

~~*(e) (3) In order to make such determination, the court may be presented evidence the sentencing proceeding, evidence may be presented concerning any matter that the court deems relevant to the question of sentence and shall include matters relating to any of the aggravating circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, and any mitigating circumstances. Any such evidence which the court deems to have probative value may be received regardless of its admissibility under the rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements. Only such evidence of aggravating circumstances as the state prosecuting attorney has made known to the defendant prior to the sentencing proceeding shall be admissible and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. Only such evidence of mitigating circumstances subject to dis-*~~

covery pursuant to K.S.A. 22-3212, and amendments thereto, that the defendant has made known to the prosecuting attorney prior to the sentencing proceeding shall be admissible. No testimony by the defendant at the time of sentencing shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(4) *At the conclusion of the evidentiary portion of the sentencing proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations. If the prosecuting attorney relies on subsection (a) of K.S.A. 2012 Supp. 21-6624, and amendments thereto, or for crimes committed prior to July 1, 2011, subsection (a) of K.S.A. 21-4636, prior to its repeal, as an aggravating circumstance, and the court finds that one or more of the defendant's prior convictions satisfy such subsection, the jury shall be instructed that a certified journal entry of a prior conviction is presumed to prove the existence of such prior conviction or convictions beyond a reasonable doubt.*

~~(d)~~ (5) *If the court finds, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A. 2012 Supp. 21-6624, and amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further, that the existence of such aggravating circumstances is not outweighed by any mitigating circumstances which are found to exist, the defendant shall be sentenced pursuant to K.S.A. 2012 Supp. 21-6623, and amendments thereto; otherwise, the defendant shall be sentenced as provided by law. The court sentencing jury shall designate, in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found. The court trier of fact may make the findings required by this subsection for the purpose of determining whether to sentence a defendant pursuant to K.S.A. 2012 Supp. 21-6623, and amendments thereto, notwithstanding contrary findings made by the jury or court pursuant to subsection (e) of K.S.A. 2012 Supp. 21-6617, and amendments thereto, for the purpose of determining whether to sentence such defendant to death. If, after a reasonable time for deliberation, the jury is unable to reach a unanimous sentencing decision, the court shall dismiss the jury and the defendant shall be sentenced as provided by law. In nonjury cases, the court shall designate in writing the specific circumstance or circumstances which the court found beyond a reasonable doubt.*

(d) *The amendments to subsection (c) by this act: (1) Establish a procedural rule for sentencing proceedings, and as such shall be construed and applied retroactively to all crimes committed prior to the effective date of this act, except as provided further in this subsection; (2) shall not apply to cases in which the defendant's conviction and sentence were final prior to June 17, 2013, unless the conviction or sentence has been vacated*

*in a collateral proceeding, including, but not limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and (3) shall apply only in sentencing proceedings otherwise authorized by law.*

*(e) Notwithstanding the provisions of subsection (f), for all cases on appeal on or after the effective date of this act, if a sentence imposed under this section, prior to amendment by this act, or under K.S.A. 21-4635, prior to its repeal, is vacated for any reason other than sufficiency of the evidence as to all aggravating circumstances, resentencing shall be required under this section, as amended by this act, unless the prosecuting attorney chooses not to pursue such a sentence.*

*(f) In the event any sentence imposed under this section is held to be unconstitutional, the court having jurisdiction over a person previously sentenced shall cause such person to be brought before the court and shall sentence such person to the maximum term of imprisonment otherwise provided by law.*

*(g) If any provision or provisions of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or provisions or application, and to this end the provisions of this section are severable.*

Sec. 2. K.S.A. 2012 Supp. 21-6624 is hereby amended to read as follows: 21-6624. Aggravating circumstances shall be limited to the following:

(a) The defendant was previously convicted of a felony in which the defendant inflicted great bodily harm, disfigurement, dismemberment or death on another.

(b) The defendant knowingly or purposely killed or created a great risk of death to more than one person.

(c) The defendant committed the crime for the defendant's self or another for the purpose of receiving money or any other thing of monetary value.

(d) The defendant authorized or employed another person to commit the crime.

(e) The defendant committed the crime in order to avoid or prevent a lawful arrest or prosecution.

(f) The defendant committed the crime in an especially heinous, atrocious or cruel manner. A finding that the victim was aware of such victim's fate or had conscious pain and suffering as a result of the physical trauma that resulted in the victim's death is not necessary to find that the manner in which the defendant killed the victim was especially heinous, atrocious or cruel. Conduct which is heinous, atrocious or cruel may include, but is not limited to:

(1) Prior stalking of or criminal threats to the victim;

(2) preparation or planning, indicating an intention that the killing was meant to be especially heinous, atrocious or cruel;

(3) infliction of mental anguish or physical abuse before the victim's death;

(4) torture of the victim;

(5) continuous acts of violence begun before or continuing after the killing;

(6) desecration of the victim's body in a manner indicating a particular depravity of mind, either during or following the killing; or

(7) any other conduct the ~~court~~ *trier of fact* expressly finds is especially heinous.

(g) The defendant committed the crime while serving a sentence of imprisonment on conviction of a felony.

(h) The victim was killed while engaging in, or because of the victim's performance or prospective performance of, the victim's duties as a witness in a criminal proceeding.

Sec. 3. K.S.A. 2012 Supp. 21-6620 and 21-6624 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved September 6, 2013.

Published in the *Kansas Register* September 6, 2013.

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CHAPTER 2

HOUSE CONCURRENT RESOLUTION No. 5001

A CONCURRENT RESOLUTION relating to a committee to inform the governor that the two houses of the legislature are duly organized and ready to receive communications.

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:*

That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the governor, and inform the governor that the two houses of the legislature are duly organized and are ready to receive any communications the governor may have to present.

Adopted by the House September 3, 2013.

Adopted by the Senate September 3, 2013.

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CHAPTER 3

HOUSE CONCURRENT RESOLUTION No. 5002

A CONCURRENT RESOLUTION relating to the 2013 special session of the legislature and providing for the adjournment thereof.

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:*

That the legislature shall adjourn sine die at the close of business of the daily session convened on September 4, 2013.

Adopted by the House September 3, 2013.

Adopted by the Senate September 4, 2013.

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**INDEX TO BILLS**

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**NUMERICAL INDEX TO HOUSE BILLS**

No.	Ch.
2002 .....	1

**NUMERICAL INDEX TO HOUSE CONCURRENT RESOLUTIONS**

No.	Ch.
5001 .....	2
5002 .....	3

## 2013 SPECIAL SESSION LAWS INDEX

## Chapter

## C

**Concurrent resolutions;**

- relating to a committee to inform the governor that the two houses of the legislature are duly organized and ready to receive communications ..... 2
- relating to the 2013 special session of the legislature and providing for the adjournment thereof ..... 3

**Courts;**

- crimes, punishment and criminal procedure, sentencing of certain persons to mandatory minimum term of imprisonment of 40 or 50 years ..... 1

**Crimes and punishments;**

- crimes, punishment and criminal procedure, sentencing of certain persons to mandatory minimum term of imprisonment of 40 or 50 years ..... 1

**Crimes, punishment and criminal procedure;**

- sentencing of certain persons to mandatory minimum term of imprisonment of 40 or 50 years ..... 1

## H

**Hard 50;**

- crimes, punishment and criminal procedure, sentencing of certain persons to mandatory minimum term of imprisonment of 40 or 50 years ..... 1

## M

**Murder;**

- crimes, punishment and criminal procedure, sentencing of certain persons to mandatory minimum term of imprisonment of 40 or 50 years ..... 1

**S**

**Chapter**

**Sentencing;**

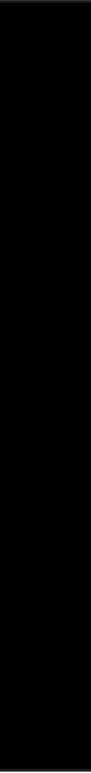
crimes, punishment and criminal procedure,  
sentencing of certain persons to mandatory minimum term of  
imprisonment of 40 or 50 years ..... 1

STATUTES REPEALED OR AMENDED  
BY THE 2013 SPECIAL LEGISLATURE

---

Kansas Statutes Annotated and Supplement	CHAP.
21-6620, Am. ....	1
21-6624, Am. ....	1







# 2014 SESSION LAWS OF KANSAS

## CHAPTER 1

HOUSE BILL No. 2303

(Amended by Chapters 117 and 125)

AN ACT concerning reinstatement fees; relating to driving under the influence fund; judicial branch nonjudicial salary adjustment fund; forensic laboratory and materials fee fund; community alcoholism and intoxication programs fund; juvenile detention facilities fund; interest thereon; amending K.S.A. 41-1126 and K.S.A. 2012 Supp. 8-241, 20-1a15, 28-176, 75-5660 and 79-4803 and repealing the existing sections.

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

Section 1. K.S.A. 2012 Supp. 8-241 is hereby amended to read as follows: 8-241. (a) Except as provided in K.S.A. 8-2,125 through 8-2,142, and amendments thereto, any person licensed to operate a motor vehicle in this state shall submit to an examination whenever: (1) The division of vehicles has good cause to believe that such person is incompetent or otherwise not qualified to be licensed; or (2) the division of vehicles has suspended such person's license pursuant to K.S.A. 8-1014, and amendments thereto, as the result of a test refusal, test failure or conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, except that no person shall have to submit to and successfully complete an examination more than once as the result of separate suspensions arising out of the same occurrence.

(b) When a person is required to submit to an examination pursuant to subsection (a)(1), the fee for such examination shall be in the amount provided by K.S.A. 8-240, and amendments thereto. When a person is required to submit to an examination pursuant to subsection (a)(2), the fee for such examination shall be \$25. In addition, any person required to submit to an examination pursuant to subsection (a)(2): (1) As the result of a test failure, a conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, shall be required, at the time of examination, to pay a reinstatement fee of ~~\$100~~-\$200 after the first occurrence, ~~\$200~~-\$400 after the second occurrence, ~~\$300~~-\$600 after the third occurrence and ~~\$400~~-\$800 after the fourth or subsequent occurrence; and (2) as a result of a test refusal, a conviction for a violation of K.S.A. 2012 Supp. 8-1025, and

amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 2012 Supp. 8-1025, and amendments thereto, shall be required, at the time of examination, to pay a reinstatement fee of ~~\$400~~-\$600 after the first occurrence, ~~\$600~~-\$900 after the second occurrence, ~~\$800~~-\$1,200 after the third occurrence and ~~\$1,000~~-\$1,500 after the fourth or subsequent occurrence.

(1) All examination fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 80% to the state highway fund and 20% shall be disposed of as provided in K.S.A. 8-267, and amendments thereto.

(2) *On and after July 1, 2013, through June 30, 2017*, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit ~~50%~~ 26% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, ~~20%~~ 12% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, ~~20%~~ 12% to the forensic laboratory and materials fee fund ~~cited in~~ created by K.S.A. 28-176, and amendments thereto, ~~and 10%~~ 17% to the driving under the influence ~~equipment~~ fund created by K.S.A. 75-5660, and amendments thereto, *and 33% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 20-1a15, and amendments thereto.* Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(3) *On and after July 1, 2017*, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 35% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 20% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, 20% to the forensic laboratory and materials fee fund created by K.S.A. 28-176, and amendments thereto, and 25% to the driving under the influence fund created by K.S.A. 75-5660, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(c) When an examination is required pursuant to subsection (a), at least five days' written notice of the examination shall be given to the licensee. The examination administered hereunder shall be at least equivalent to the examination required by subsection (e) of K.S.A. 8-247, and

amendments thereto, with such additional tests as the division deems necessary. Upon the conclusion of such examination, the division shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain such license, or may issue a license subject to restrictions as permitted under K.S.A. 8-245, and amendments thereto.

(d) Refusal or neglect of the licensee to submit to an examination as required by this section shall be grounds for suspension or revocation of the license.

Sec. 2. K.S.A. 2012 Supp. 20-1a15 is hereby amended to read as follows: 20-1a15. (a) There is hereby established in the state treasury the judicial branch nonjudicial salary adjustment fund.

(b) All moneys credited to the judicial branch nonjudicial salary adjustment fund shall be used for compensation of nonjudicial officers and employees of the district courts, court of appeals and the supreme court and shall not be expended for compensation of judges or justices of the judicial branch. Moneys in the fund shall be used only to pay for that portion of the cost of salaries and wages of nonjudicial personnel of the judicial branch, including associated employer contributions, which shall not exceed the difference between the amount of expenditures that would be required under the judicial branch pay plan for nonjudicial personnel in effect prior to the effective date of this act and the amount of expenditures required under the judicial branch pay plan for nonjudicial personnel after the cost-of-living adjustments and the adjustments for upgrades in pay rates for nonjudicial personnel approved by the chief justice of the Kansas supreme court for fiscal year 2009. For fiscal years commencing on and after June 30, 2010, moneys in such fund shall be used only for the amount attributable to maintenance of the judicial branch pay plan for nonjudicial personnel for such adjustments and upgrades approved by the chief justice of the supreme court for fiscal year 2009.

(c) *On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the judicial branch nonjudicial salary adjustment fund interest earnings based on:*

*(1) The average daily balance of moneys in the judicial branch nonjudicial salary adjustment fund for the preceding month; and*

*(2) the net earnings rate of the pooled money investment portfolio for the preceding month.*

~~(c)-(d)~~ All expenditures from the judicial branch nonjudicial salary adjustment fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to payrolls approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

Sec. 3. K.S.A. 2012 Supp. 28-176 is hereby amended to read as follows: 28-176. (a) The court shall order any person convicted or diverted,

or adjudicated or diverted under a preadjudication program pursuant to K.S.A. 22-2906 et seq., K.S.A. 2012 Supp. 38-2346 et seq., or 12-4414, and amendments thereto, of a misdemeanor or felony contained in chapters 21, 41 or 65 of the Kansas Statutes Annotated, and amendments thereto, or a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or a violation of a municipal ordinance or county resolution prohibiting the acts prohibited by such statutes, unless the municipality or county has an agreement with the laboratory providing services that sets a restitution amount to be paid by the person that is directly related to the cost of laboratory services, to pay a separate court cost of \$400 for every individual offense if forensic science or laboratory services or forensic computer examination services are provided, in connection with the investigation, by:

- (1) The Kansas bureau of investigation;
- (2) the Sedgwick county regional forensic science center;
- (3) the Johnson county sheriff's laboratory;
- (4) the heart of America regional computer forensics laboratory; or
- (5) the Wichita-Sedgwick county computer forensics crimes unit.

(b) Such fees shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

(c) The court shall not lessen or waive such fees unless the court has determined such person is indigent and the basis for the court's determination is reflected in the court's order.

(d) Such fees shall be deposited into the designated fund of the laboratory or forensic science or computer center that provided such services. Fees for services provided by:

(1) The Kansas bureau of investigation shall be deposited in the Kansas bureau of investigation forensic laboratory and materials fee fund *which is hereby created*;

(2) the Sedgwick county regional forensic science center shall be deposited in the Sedgwick county general fund;

(3) the Johnson county sheriff's laboratory shall be deposited in the Johnson county sheriff's laboratory analysis fee fund;

(4) the heart of America regional computer forensics laboratory shall be deposited in the general treasury account maintained by such laboratory; and

(5) the Wichita-Sedgwick county computer forensic crimes unit shall be retained by the Sedgwick county sheriff. All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office.

(e) Disbursements from the funds and accounts described in subsection (d) shall be made for the following:

- (1) Forensic science or laboratory services;
- (2) forensic computer examination services;
- (3) purchase and maintenance of laboratory equipment and supplies;

(4) education, training and scientific development of personnel; and  
 (5) from the Kansas bureau of investigation forensic laboratory and materials fee fund, the destruction of seized property and chemicals as described in K.S.A. 22-2512 and 60-4117, and amendments thereto.

*(f) On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas bureau of investigation forensic laboratory and materials fee fund interest earnings based on:*

*(1) The average daily balance of moneys in the Kansas bureau of investigation forensic laboratory and materials fee fund for the preceding month; and*

*(2) the net earnings rate of the pooled money investment portfolio for the preceding month.*

*(g) All expenditures from the Kansas bureau of investigation forensic laboratory and materials fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.*

Sec. 4. K.S.A. 41-1126 is hereby amended to read as follows: 41-1126.

(a) In addition to other purposes for which expenditures may be made from the other state fees fund of the ~~department of social and rehabilitation~~ Kansas department for aging and disability services, moneys in the other state fees fund of the ~~department of social and rehabilitation~~ Kansas department for aging and disability services shall be used by the secretary of ~~social and rehabilitation~~ for aging and disability services to provide financial assistance to community-based alcoholism and intoxication treatment programs for the following purposes: (1) Matching money under title XX of the federal social security act to purchase treatment services from approved treatment facilities; (2) providing start-up or expansion grants for halfway houses or rehabilitation centers for alcoholics; (3) purchasing services from approved treatment facilities for persons who are needy but who are not eligible for assistance under either title XIX or title XX of the federal social security act, and administrative costs of the alcohol and drug abuse section which shall not exceed 10% of the total moneys in the community alcoholism and intoxication programs fund; and (4) assisting to develop programs for prevention, education, early identification and facility assistance and review team.

(b) No state alcohol treatment program at ~~Topoka state hospital~~, Osawatomie state hospital, Rainbow mental health facility or Larned state hospital shall receive any moneys under the provisions of subsection (a) of this section.

*(c) There is hereby established in the state treasury the community alcoholism and intoxication programs fund.*

*(d) On or before the 10<sup>th</sup> day of each month, the director of accounts*

*and reports shall transfer from the state general fund to the community alcoholism and intoxication programs fund interest earnings based on:*

*(1) The average daily balance of moneys in the community alcoholism and intoxication programs fund for the preceding month; and*

*(2) the net earnings rate of the pooled money investment portfolio for the preceding month.*

*(e) All expenditures from the community alcoholism and intoxication programs fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for aging and disability services or the secretary's designee.*

Sec. 5. K.S.A. 2012 Supp. 75-5660 is hereby amended to read as follows: 75-5660. (a) There is hereby established in the state treasury the driving under the influence ~~equipment~~ fund.

(b) Moneys in the driving under the influence ~~equipment~~ fund shall be used by the department of health and environment only for the purposes of: (1) Purchasing breath alcohol concentration testing equipment, including, but not limited to, laboratory enhancement ~~and~~; (2) for purposes relating to presentation of evidence in prosecution in cases involving driving under the influence, ~~or~~; and (3) establishing and maintaining drivers' safety and breath alcohol programs.

*(c) On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the driving under the influence fund interest earnings based on:*

*(1) The average daily balance of moneys in the driving under the influence fund for the preceding month; and*

*(2) the net earnings rate of the pooled money investment portfolio for the preceding month.*

*(d) All expenditures from the driving under the influence ~~equipment~~ fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee.*

*(e) On the effective date of this act:*

*(1) The director of accounts and reports shall transfer all moneys in the driving under the influence equipment fund to the driving under the influence fund;*

*(2) all liabilities of the driving under the influence equipment fund existing prior to that date are hereby imposed on the driving under the influence fund; and*

*(3) the driving under the influence equipment fund is hereby abolished.*

Sec. 6. K.S.A. 2012 Supp. 79-4803 is hereby amended to read as

follows: 79-4803. (a) After the transfer of moneys pursuant to K.S.A. 2012 Supp. 79-4806, and amendments thereto:

(1) An amount equal to 10% of the balance of all moneys credited to the state gaming revenues fund shall be transferred and credited to the correctional institutions building fund created pursuant to K.S.A. 76-6b09, and amendments thereto, to be appropriated by the legislature for the use and benefit of state correctional institutions as provided in K.S.A. 76-6b09, and amendments thereto; and

(2) an amount equal to 5% of the balance of all moneys credited to the state gaming revenues fund shall be transferred and credited to the juvenile detention facilities fund.

(b) There is hereby created in the state treasury the juvenile detention facilities fund which shall be administered by the commissioner of juvenile justice. The Kansas advisory group on juvenile justice and delinquency prevention shall review and make recommendations concerning the administration of the fund. All expenditures from the juvenile detention facilities fund shall be for the retirement of debt of facilities for the detention of juveniles; or for the construction, renovation, remodeling or operational costs of facilities for the detention of juveniles in accordance with a grant program which shall be established with grant criteria designed to facilitate the expeditious award and payment of grants for the purposes for which the moneys are intended. "Operational costs" shall not be limited to any per capita reimbursement by the commissioner of juvenile justice for juveniles under the supervision and custody of the commissioner but shall include payments to counties as and for their costs of operating the facility. The commissioner of juvenile justice shall make grants of the moneys credited to the juvenile detention facilities fund for such purposes to counties in accordance with such grant program. All expenditures from the juvenile detention facilities fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner of juvenile justice or the commissioner's designee.

(c) *On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the juvenile detention facilities fund interest earnings based on:*

(1) *The average daily balance of moneys in the juvenile detention facilities fund for the preceding month; and*

(2) *the net earnings rate of the pooled money investment portfolio for the preceding month.*

Sec. 7. K.S.A. 41-1126 and K.S.A. 2012 Supp. 8-241, 20-1a15, 28-176, 75-5660 and 79-4803 are hereby repealed.

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

Approved February 3, 2014.

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## CHAPTER 2

### HOUSE BILL No. 2210

AN ACT concerning elections; relating to change of party affiliation; when not permissible; amending K.S.A. 25-3301 and 25-3304 and repealing the existing sections.

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

Section 1. K.S.A. 25-3304 is hereby amended to read as follows: 25-3304. (a) Any person who has declared such person's party or voter affiliation in the manner provided by law shall be listed on a voter affiliation list as a member of a registered political organization, or on a party affiliation list if a member of a recognized political party, unless the person's name is purged or removed therefrom as provided by K.S.A. 25-3303, and amendments thereto, or unless the person changes party or voter affiliation as provided in this section.

(b) Any person, who, having declared a party or voter affiliation, desires to change the same, may file a written declaration with the county election officer, stating the change of party or voter affiliation. Such declaration ~~shall be filed not less than 14 days prior to the date of any national, state, county or township primary election~~ *cannot be filed during the time from the candidate filing deadline, as prescribed in K.S.A. 25-205, 25-305 and 25-404, and amendments thereto, through the time when the primary election results are certified by the secretary of state.* The county election officer shall enter a record of such change on the party or voter affiliation list of such preceding primary election in the proper column opposite the voter's name.

~~(c) Any person who has never declared a party or voter affiliation in the county in which such person resides may file a written declaration with the county election officer, stating the person's party or voter affiliation. Such declaration shall be filed not less than 14 days prior to the date of any national, state, county or township primary election. The county election officer shall enter a record of such declaration on the party or voter affiliation list of the preceding primary election in the proper column opposite the voter's name.~~

Sec. 2. K.S.A. 25-3301 is hereby amended to read as follows: 25-3301. (a) Each registered voter of this state who has declared a party affiliation as provided in this section or in K.S.A. 25-3304, and amendments thereto, shall be entitled to vote at every partisan primary election.

(b) The county election officer shall prepare for each voting place at each partisan primary election a party affiliation list, duly certified by such officer, which clearly indicates the party affiliation of each registered voter in the voting area who has declared a party affiliation. The registration book prepared for a voting place pursuant to K.S.A. 25-2318, and amendments thereto, may be used as such list, but no registration book prepared for use at a voting place in an election other than a partisan primary election or an election held at the same time as a partisan primary election shall indicate in any manner the party affiliation of any voter. Such list shall be delivered by the supervising judge to the voting place before the opening of the polls.

(c) The party affiliation list provided for by subsection (b) shall be used to determine the party affiliation of a voter offering to vote at a partisan primary election and of a voter applying for an advance voting ballot pursuant to K.S.A. 25-1122, and amendments thereto. If a voter's party affiliation is not indicated on the party affiliation list, such voter shall state the voter's party affiliation in writing on a form prescribed by the secretary of state. A judge at the precinct polling place, or the county election officer or such officer's designee, shall give such voter a primary ballot of the voter's party affiliation, and such person thereupon shall be entitled to vote. Such a statement of party affiliation shall constitute a declaration of party affiliation, and all such signed statements shall be returned to the county election officer, who shall cause them to be recorded on the party affiliation list.

~~(d) No voter shall be allowed to receive the ballot of any political party except that with which such voter is affiliated.~~

~~(e)~~ Party affiliation statements shall be preserved for five years. The county election officer may dispose of the statements in the manner approved for destruction of ballots as provided in K.S.A. 25-2708, and amendments thereto.

~~(f)~~(e) The county election officer shall update party affiliation lists as provided by rules and regulations of the secretary of state.

Sec. 3. K.S.A. 25-3301 and 25-3304 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 25, 2014.

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## CHAPTER 3

## HOUSE BILL No. 2514

AN ACT concerning insolvent insurance companies; pertaining to certain exemptions for the federal home loan bank; amending K.S.A. 40-3609, 40-3619, 40-3625, 40-3629, 40-3630 and 40-3631 and repealing the existing sections.

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

Section 1. K.S.A. 40-3609 is hereby amended to read as follows: 40-3609. (a) *Except as provided in subsection (c)*, any receiver appointed in a proceeding under this act may at any time apply for, and the district court of Shawnee county may grant, such restraining orders, preliminary and permanent injunctions and other orders as may be deemed necessary and proper to prevent:

- (1) The transaction of further business;
- (2) the transfer of property;
- (3) interference with the receiver or with a proceeding under this act;
- (4) waste of the insurer's assets;
- (5) dissipation and transfer of bank accounts;
- (6) the institution or further prosecution of any actions or proceedings;
- (7) the obtaining of preferences, judgments, attachments, garnishments or liens against the insurer, its assets or its policyholders;
- (8) the levying of execution against the insurer, its assets or its policyholders;
- (9) the making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of the insurer;
- (10) the withholding from the receiver of books, accounts, documents or other records relating to the business of the insurer; or
- (11) any other threatened or contemplated action that might lessen the value of the insurer's assets or prejudice the rights of policyholders, creditors or shareholders, or the administration of any proceeding under this act.

(b) *Except as provided in subsection (c)*, the receiver may apply to any court outside the state for the relief described in subsection (a).

(c) *No federal home loan bank shall be stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action regarding collateral pledged under:*

- (1) *Any federal home loan bank security agreement; or*
- (2) *any pledge, security, collateral or guarantee agreement or other similar arrangement or credit enhancement relating to such security agreement.*

Sec. 2. K.S.A. 40-3619 is hereby amended to read as follows: 40-3619. (a) *Except as provided in subsection (d)*, any court in this state before which any action or proceeding in which the insurer is a party, or is

obligated to defend a party, is pending when a rehabilitation order against the insurer is entered shall stay the action or proceeding for 90 days and such additional time as is necessary for the rehabilitator to obtain proper representation and prepare for further proceedings. The rehabilitator shall take such action respecting the pending litigation as necessary in the interests of justice and for the protection of creditors, policyholders and the public. The rehabilitator shall immediately consider all litigation pending outside this state and shall petition the courts having jurisdiction over such litigation for stays whenever necessary to protect the estate of the insurer.

(b) *Except as provided in subsection (d), no statute of limitation or defense of laches shall run with respect to any action by or against an insurer between the filing of a petition for appointment of a rehabilitator for that insurer and the order granting and denying that petition. Any action against the insurer that might have been commenced when the petition was filed may be commenced for at least 60 days after the order or rehabilitation is entered or the petition is denied. The rehabilitator, upon an order for rehabilitation, within one year or such other longer time as applicable law may permit, may institute an action or proceeding on behalf of the insurer upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which such order is entered.*

(c) Any guaranty association or foreign guaranty association covering life or health insurance or annuities shall have standing to appear in any court proceeding concerning the rehabilitation of a life or health insurer if such association is or may become liable to act as a result of the rehabilitation.

(d) *No federal home loan bank shall be stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action regarding collateral pledged under:*

(1) *Any federal home loan bank security agreement; or*

(2) *any pledge, security, collateral or guarantee agreement or other similar arrangement or credit enhancement relating to such security agreement.*

Sec. 3. K.S.A. 40-3625 is hereby amended to read as follows: 40-3625.  
(a) The liquidator shall have the power:

(1) To appoint a special deputy or deputies to act for the liquidator under this act, and to determine reasonable compensation for such deputies. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator;

(2) to employ employees and agents, legal counsel, actuaries, accountants, appraisers, consultants and other personnel necessary to assist in the liquidation;

(3) to appoint an advisory committee of policyholders, claimants or other creditors including guaranty associations should such a committee be deemed necessary. Such committee shall serve at the pleasure of the commissioner and shall serve without compensation other than reimbursement for personal travel and per diem living expenses. No other committee of any nature shall be appointed by the commissioner or the court in liquidation proceedings conducted under this act;

(4) to fix the reasonable compensation of employees and agents, legal counsel, actuaries, accountants, appraisers and consultants with the approval of the court;

(5) to pay reasonable compensation to persons appointed and to defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer;

(6) to hold hearings, to subpoena witnesses to compel their attendance, to administer oaths, to examine any person under oath, and to compel any person to subscribe to testimony of the person after the testimony has been correctly reduced to writing; and in connection therewith to require the production of any books, papers, records or other documents which are relevant to the inquiry. Such hearings shall be held in accordance with the Kansas administrative procedure act;

(7) to audit the books and records of all agents of the insurer insofar as those records relate to the business activities of the insurer;

(8) to collect all debts and moneys due and claims belonging to the insurer, wherever located, and for this purpose:

(A) To institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts;

(B) to do such other acts as are necessary or expedient to collect, conserve or protect such insurer's assets or property, including the power to sell, compound, compromise or assign debts for purposes of collection upon reasonable terms and conditions; and

(C) to pursue any creditor's remedies available to enforce claims;

(9) to conduct public and private sales of the property of the insurer;

(10) to use assets of the estate of an insurer under a liquidation order to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under K.S.A. 40-3641, *and amendments thereto*;

(11) to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon or otherwise dispose of or deal with, any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable. The liquidator shall also have power to execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation;

(12) to borrow money on the security of the insurer's assets or without

security and to execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation. Any such funds borrowed may be repaid as an administrative expense and have priority over any other claims in class 1 under the priority of distribution;

(13) to enter into such contracts as are necessary to carry out the order to liquidate, and to affirm or disavow any contracts to which the insurer is a party, *except that no liquidator shall have the power to disavow, reject or repudiate:*

(A) *Any federal home loan bank security agreement; or*

(B) *any pledge, security, collateral or guarantee agreement or any other similar arrangement or credit enhancement relating to such security agreement;*

(14) to continue to prosecute and to institute in the name of the insurer or in the liquidator's name any and all suits and other legal proceedings, in this state or outside this state, and to abandon the prosecution of unprofitable claims. If the insurer is dissolved under K.S.A. 40-3624, *and amendments thereto*, the liquidator shall have the power to apply to any court in this state or elsewhere for leave to substitute such liquidator for the insurer as plaintiff;

(15) to prosecute any action which may exist on behalf of the creditors, members, policyholders or shareholders of the insurer against any officer of the insurer, or any other person;

(16) to remove any or all records and property of the insurer to the offices of the commissioner or to such other place as may be convenient for the purposes of efficient and orderly execution of the liquidation. Guaranty associations and foreign guaranty associations shall have such reasonable access to the records of the insurer as is necessary for them to carry out their statutory obligations;

(17) to deposit in one or more banks in this state such sums as are required for meeting current administration expenses and dividend distributions;

(18) to invest all sums not currently needed, unless the court orders otherwise;

(19) to file any necessary documents for record in the office of any register of deeds or record office in this state or elsewhere where property of the insurer is located;

(20) to assert all defenses available to the insurer as against third persons, including statutes of limitation, statutes of frauds and the defense of usury. A waiver of any defense by the insurer after a petition in liquidation has been filed shall not bind the liquidator. Whenever a guaranty association or foreign guaranty association has an obligation to defend any suit, the liquidator shall give precedence to such obligation and may defend only in the absence of a defense by such guaranty associations;

(21) to exercise and enforce all the rights, remedies and powers of any creditor, shareholder, policyholder or member; including any power

to avoid any transfer or lien that may be given by the general law and that is not included with K.S.A. 40-3629 through 40-3631, *and amendments thereto*;

(22) to intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and to act as the receiver or trustee whenever the appointment is offered;

(23) to enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation or dissolution of an insurer doing business in both states; and

(24) to exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with the provisions of this act.

(b) The enumeration, in this section, of the powers and authority of the liquidator shall not be construed as limitation upon the liquidator, nor shall it exclude in any manner the right to do such other acts not specifically enumerated or otherwise provided for, as may be necessary or appropriate for the accomplishment of or in aid of the purpose of liquidation.

(c) Notwithstanding the powers of the liquidator as stated in subsections (a) and (b), the liquidator shall have no obligation to defend claims or to continue to defend claims subsequent to the entry of a liquidation order.

Sec. 4. K.S.A. 40-3629 is hereby amended to read as follows: 40-3629. (a) *Except as provided in subsection (e)*, every transfer made or suffered and every obligation incurred by an insurer within one year prior to the filing of a successful petition for rehabilitation or liquidation under this act is fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay or defraud either existing or future creditors. A transfer made or an obligation incurred by an insurer ordered to be rehabilitated or liquidated under this act, which is fraudulent under this section, may be avoided by the receiver, except as to a person who in good faith is a purchaser, lienor or obligee for a present fair equivalent value, and except that any purchaser, lienor or obligee, who in good faith has given a consideration less than fair for such transfer, lien or obligation, may retain the property, lien or obligation as security for repayment. The court, on due notice, may order any such transfer or obligation to be preserved for the benefit of the estate, and in that event, the receiver shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

(b) (1) A transfer of property other than real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent lien obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee.

(2) A transfer of real property shall be deemed to be made or suffered

when it becomes so far perfected that no subsequent bona fide purchaser from the insurer could obtain rights superior to the rights of the transferee.

(3) A transfer which creates an equitable lien shall not be deemed to be perfected if there are available means by which a legal lien could be created.

(4) Any transfer not perfected prior to the filing of a petition for liquidation shall be deemed to be made immediately before the filing of the successful petition.

(5) The provisions of this subsection apply whether or not there are or were creditors who might have obtained any liens or persons who might have become bona fide purchasers.

(c) Any transaction of the insurer with a reinsurer shall be deemed fraudulent and may be avoided by the receiver under subsection (a) if:

(1) The transaction consists of the termination, adjustment or settlement of a reinsurance contract in which the reinsurer is released from any part of its duty to pay the originally specified share of losses that had occurred prior to the time of the transactions, unless the reinsurer gives a present fair equivalent value for the release; and

(2) any part of the transaction took place within one year prior to the date of filing of the petition through which the receivership was commenced.

(d) Every person receiving any property from the insurer or any benefit thereof which is a fraudulent transfer under subsection (a) shall be personally liable therefor and shall be bound to account to the liquidator.

(e) (1) *Except as provided in paragraph (2), no receiver shall be entitled to avoid any transfer of, or any obligation to transfer, money or any other property arising under or in connection with:*

(A) *Any federal home loan bank security agreement; or*

(B) *any pledge, security, collateral or guarantee agreement or any other similar arrangement or credit enhancement relating to such federal home loan bank security agreement.*

(2) *A transfer may be avoided under this section if such transfer was made with actual intent to hinder, delay or defraud either existing or future creditors.*

Sec. 5. K.S.A. 40-3630 is hereby amended to read as follows: 40-3630. (a) *Except as provided in subsection (e), after a petition for rehabilitation or liquidation has been filed, a transfer of any of the real property of the insurer made to a person acting in good faith shall be valid against the receiver if made for a present fair equivalent value, or, if not made for a present fair equivalent value, then to the extent of the present consideration actually paid therefor, for which amount the transferee shall have a lien on the property so transferred. The commencement of a proceeding in rehabilitation or liquidation shall be constructive notice upon the re-*

ording of a copy of the petition for or order of rehabilitation or liquidation with the register of deeds in the county where any real property in question is located. The exercise by a court of the United States or any state or jurisdiction to authorize or effect a judicial sale of real property of the insurer within any county in any state shall not be impaired by the pendency of such a proceeding unless the copy is recorded in the county prior to the consummation of the judicial sale.

(b) After a petition for rehabilitation or liquidation has been filed and before either the receiver takes possession of the property of the insurer or an order of rehabilitation or liquidation is granted:

(1) A transfer of any of the property of the insurer, other than real property, made to a person acting in good faith shall be valid against the receiver if made for a present fair equivalent value, or, if not made for a present fair equivalent value, then to the extent of the present consideration actually paid therefor, for which amount the transferee shall have a lien on the property so transferred.

(2) A person indebted to the insurer or holding property of the insurer, if acting in good faith, may pay the indebtedness or deliver the property, or any part thereof, to the insurer or upon the insurer's order, with the same effect as if the petition were not pending.

(3) A person having actual knowledge of the pending rehabilitation or liquidation shall be deemed not to act in good faith.

(4) A person asserting the validity of a transfer under this section shall have the burden of proof. Except as elsewhere provided in this section, no transfer by or on behalf of the insurer after the date of the petition for liquidation by any person other than the liquidator shall be valid against the liquidator.

(c) Every person receiving any property from the insurer or any benefit thereof which is a fraudulent transfer under subsection (a) shall be personally liable therefor and shall be bound to account to the liquidator.

(d) Nothing in this act shall impair the negotiability of currency or negotiable instruments.

*(e) (1) Except as provided in paragraph (2), no receiver shall be entitled to avoid any transfer of, or any obligation to transfer, money or any other property arising under or in connection with:*

*(A) Any federal home loan bank security agreement; or*

*(B) any pledge, security, collateral or guarantee agreement or any other similar arrangement or credit enhancement relating to such federal home loan bank security agreement.*

*(2) A transfer may be avoided under this section if such transfer was made with actual intent to hinder, delay or defraud either existing or future creditors.*

Sec. 6. K.S.A. 40-3631 is hereby amended to read as follows: 40-3631.

(a) (1) A preference is a transfer of any of the property of an insurer to

or for the benefit of a creditor, for or on account of an antecedent debt, made or suffered by the insurer within one year before the filing of a successful petition for liquidation under this act, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the insurer is already subject to a rehabilitation order, then such transfers shall be deemed preferences if made or suffered within one year before the filing of the successful petition for rehabilitation, or within two years before the filing of the successful petition for liquidation, whichever time is shorter.

(2) *Except as provided in paragraph (4), any preference may be avoided by the liquidator if:*

(A) The insurer was insolvent at the time of the transfer;

(B) the transfer was made within four months before the filing of the petition;

(C) the creditor receiving the preference or to be benefited thereby or the creditor's agent acting with reference thereto had, at the time when the transfer was made, reasonable cause to believe that the insurer was insolvent or was about to become insolvent; or

(D) the creditor receiving the preference was an officer, or any employee or attorney or other person who was in fact in a position of comparable influence with the insurer to an officer whether or not such creditor held such position, or any shareholder holding directly or indirectly more than 5% of any class of any equity security issued by the insurer, or any other person, firm, corporation, association, or aggregation of persons with whom the insurer did not deal at arm's length.

(3) Where the preference is voidable, the liquidator may recover the property or, if it has been converted, its value from any person who has received or converted the property, except where a bona fide purchaser or lienor has given less than fair equivalent value, such person shall have a lien upon the property to the extent of the consideration actually given. Where a preference by way of lien or security title is voidable, the court may on due notice order the lien or title to be preserved for the benefit of the estate, in which event the lien or title shall pass to the liquidator.

(4) *No liquidator or receiver shall be entitled to avoid any preference arising under or in connection with:*

(A) *Any federal home loan bank security agreement; or*

(B) *any pledge, security, collateral or guarantee agreement or any other similar arrangement or credit enhancement relating to such security agreement.*

(b) (1) A transfer of property other than real property shall be deemed to be made or suffered when such transfer becomes so far perfected that no subsequent lien obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee.

(2) A transfer of real property shall be deemed to be made or suffered when such transfer becomes so far perfected that no subsequent bona fide purchaser from the insurer could obtain rights superior to the rights of the transferee.

(3) A transfer which creates an equitable lien shall not be deemed to be perfected if there are available means by which a legal lien could be created.

(4) A transfer not perfected prior to the filing of a petition for liquidation shall be deemed to be made immediately before the filing of the successful petition.

(5) The provisions of this subsection apply whether or not there are, or were, creditors who might have obtained liens or persons who might have become bona fide purchasers.

(c) (1) A lien obtainable by legal or equitable proceedings upon a simple contract is one arising in the ordinary course of such proceedings upon the entry or docketing of a judgment or decree, or upon attachment, garnishment, execution or like process, whether before, upon, or after judgment or decree and whether before or upon levy. It does not include liens which under applicable law are given a special priority over other liens which are prior in time.

(2) A lien obtainable by legal or equitable proceedings could become superior to the rights of a transferee, or a purchaser could obtain rights superior to the rights of a transferee within the meaning of subsection (b), if such consequences would follow only from the lien or purchase itself, or from the lien or purchase followed by any step wholly within the control of the respective lienholder or purchaser, with or without the aid of ministerial action by public officials. Such a lien could not, however, become superior and such a purchase could not create superior rights for the purpose of subsection (b) through any actions subsequent to the obtaining of such a lien or subsequent to such a purchase which requires the agreement or concurrence of any third party or which require any further judicial action or ruling.

(d) A transfer of property for or on account of a new and contemporaneous consideration which is deemed under subsection (b) to be made or suffered after the transfer because of delay in perfecting such transfer does not thereby become a transfer for or on account of an antecedent debt if any acts required by the applicable law to be performed in order to perfect the transfer as against liens or bona fide purchasers' rights are performed within 21 days or any period expressly allowed by law, whichever is less. A transfer to secure a future loan, if such a loan is actually made, or a transfer which becomes security for a future loan, shall have the same effect as a transfer for or on account of a new and contemporaneous consideration.

(e) If any lien deemed voidable under subsection (a)(2) has been dissolved by the furnishing of a bond or other obligation, the surety on

which has been indemnified directly or indirectly by the transfer of or the creation of a lien upon any property of an insurer before the filing of a petition under this act which results in a liquidation order, the indemnifying transfer or lien shall also be deemed voidable.

(f) The property affected by any lien deemed voidable under subsections (a) and (e) shall be discharged from such lien, and that property and any of the indemnifying property transferred to or for the benefit of a surety shall pass to the liquidator, except that the court may on due notice order any such lien to be preserved for the benefit of the estate and the court may direct that such conveyance be executed as may be proper or adequate to evidence the title of the liquidator.

(g) The district court of Shawnee county shall have summary jurisdiction of any proceeding by the liquidator to hear and determine the rights of any parties under this section. Reasonable notice of any hearing in the proceeding shall be given to all parties in interest, including the obligee of a releasing bond or other like obligation. Where an order is entered for the recovery of indemnifying property in-kind or for the avoidance of an indemnifying lien, the court, upon application of any party in interest, shall in the same proceeding ascertain the value of the property or lien, and if the value is less than the amount for which the property is indemnity or than the amount of the lien, the transferee or lienholder may elect to retain the property or lien upon payment of its value, as ascertained by the court, to the liquidator, within such reasonable times as the court shall fix.

(h) The liability of the surety under a releasing bond or other like obligation shall be discharged to the extent of the value of the indemnifying property recovered or the indemnifying lien nullified and avoided by the liquidator, or where the property is retained under subsection (g) to the extent of the amount paid to the liquidator.

(i) If a creditor has been preferred, and afterward in good faith gives the insurer further credit without security of any kind, for property which becomes a part of the insurer's estate, the amount of the new credit remaining unpaid at the time of the petition may be setoff against the preference which would otherwise be recoverable.

(j) If an insurer shall, directly or indirectly, within four months before the filing of a successful petition for liquidation under this act, or at any time in contemplation of a proceeding to liquidate such insurer, pay money or transfer property to an attorney-at-law for services rendered or to be rendered, the transactions may be examined by the court on its own motion or shall be examined by the court on petition of the liquidator and shall be held valid only to the extent of a reasonable amount to be determined by the court, and the excess may be recovered by the liquidator for the benefits of the estate provided that where the attorney is in a position of influence with the insurer or an affiliate thereof payment of any money or the transfer of any property to the attorney-at-law for serv-

ices rendered or to be rendered shall be governed by the provision of subsection (a)(2)(D).

(k) (1) Every officer, manager, employee, shareholder, member, subscriber, attorney or any other person acting on behalf of the insurer who knowingly participates in giving any preference when such person has reasonable cause to believe the insurer is or is about to become insolvent at the time of the preference shall be personally liable to the liquidator for the amount of the preference. It is permissible to infer that there is a reasonable cause to so believe if the transfer was made within four months before the date of filing of this successful petition for liquidation.

(2) Every person receiving any property from the insurer or the benefit thereof as a preference voidable under subsection (a) shall be personally liable therefor and shall be bound to account to the liquidator.

(3) Nothing in this subsection shall prejudice any other claim by the liquidator against any person.

Sec. 7. K.S.A. 40-3609, 40-3619, 40-3625, 40-3629, 40-3630 and 40-3631 are hereby repealed.

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

Approved March 25, 2014.

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## CHAPTER 4

### HOUSE BILL No. 2599\*

AN ACT authorizing the secretary of state to grant an easement to the unified government of Wyandotte county, Kansas.

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

Section 1. (a) The secretary of state is hereby authorized and directed to grant an easement on land owned by the state of Kansas along the north bank of the Kansas river in Wyandotte county and within and without the city of Kansas City, Kansas, to the unified government of Wyandotte county/Kansas City for use as a boat ramp. Such easement shall be 80 feet in width and shall be 40 feet on each side of the following described line: Commencing at the northwest corner of southwest quarter of section 22-T11S, R25E; Thence north 86 degrees 14 minutes 35 seconds east, along the north line of said southwest quarter, 1363.51 feet, to a point on the centerline of 7th street (US 169 highway); Thence south 03 degrees 39 minutes 31 seconds east, along said centerline of 7th Street, 1140.53 feet, to a point on the north line of the kaw valley drainage district permanent easement; Thence south 47 degrees 23 minutes 54 seconds east, 310.05 feet, to a point at the northerly end center point of a 20.00

foot wide boat ramp; Thence south 63 degrees 26 minutes 06 seconds east, 150.00 feet, along the centerline of said boat ramp to the approximate water line of the Kaw river; Thence continuing south 63 degrees 23 minutes 06 seconds east, 36.00 feet, along the centerline of said boat ramp to the southerly end of said boat ramp; subject to survey and any easement and restrictions of record.

(b) The unified government of Wyandotte county/Kansas City is hereby authorized to acquire the easement described in subsection (a) for use as an emergency management boat ramp for the Kansas City, Kansas fire department. Such easement shall be conditioned on the unified government of Wyandotte county/Kansas City prohibiting public access to such easement and assuming full responsibility for such use and holding the state of Kansas harmless therefor.

(c) The legal document granting the easement described under subsection (a) shall be approved by the attorney general and shall be executed by the secretary of state. The conveyance may be in such form as determined to be in the best interest of the state by the attorney general in consultation with the secretary of state.

(d) In the event the secretary of state determines that the legal description of the parcel described by this section is incorrect, the secretary of state may grant the easement utilizing the correct legal description but the legal document granting the easement shall be subject to approval by the attorney general.

(e) The conveyance of the easement authorized by this section shall not be subject to the provisions of K.S.A. 75-3043a or K.S.A. 2013 Supp. 75-6609, and amendments thereto.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved March 25, 2014.

Published in the *Kansas Register* March 27, 2014.

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## CHAPTER 5

### SENATE BILL No. 248

AN ACT concerning the secretary of corrections; relating to victim notification prior to release of certain inmates; amending K.S.A. 2013 Supp. 22-3303, 22-3305, 22-3428, 22-3428a, 22-3430, 22-3431, 22-3727 and 22-3727a and repealing the existing sections.

WHEREAS, The provisions of K.S.A. 2013 Supp. 22-3727, and amendments thereto, shall be known and may be cited as Adrian Olajuwon Crosby and Dominique Nathaniel Tyree Green's Law: Now, therefore,

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

Section 1. K.S.A. 2013 Supp. 22-3303 is hereby amended to read as follows: 22-3303. (1) A defendant who is charged with a felony and is found to be incompetent to stand trial shall be committed for evaluation and treatment to the state security hospital or any appropriate county or private institution. A defendant who is charged with a misdemeanor and is found to be incompetent to stand trial shall be committed for evaluation and treatment to any appropriate state, county or private institution. At the time of such commitment the institution of commitment shall notify ~~the secretary of corrections~~ *county or district attorney of the county in which the criminal proceedings are pending* for the purpose of providing victim notification. Any such commitment shall be for a period of not to exceed 90 days. Within 90 days after the defendant's commitment to such institution, the chief medical officer of such institution shall certify to the court whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future. If such probability does exist, the court shall order the defendant to remain in an appropriate state, county or private institution until the defendant attains competency to stand trial or for a period of six months from the date of the original commitment, whichever occurs first. If such probability does not exist, the court shall order the ~~secretary of social and rehabilitation~~ *secretary of social and rehabilitation for aging and disability* services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5505, subsection (b) of 21-5506, subsection (b) of 21-5508, subsection (b) of 21-5604 or subsection (b) of 21-5812, and amendments thereto, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in subsection (e) of K.S.A. 59-2946, and amendments thereto, who is likely to cause harm to self and others, as defined in subsection (f)(3) of K.S.A. 59-2946, and amendments thereto. The other provisions of subsection (f) of K.S.A. 59-2946, and amendments thereto, shall not apply.

(2) If a defendant who was found to have had a substantial probability of attaining competency to stand trial, as provided in subsection (1), has not attained competency to stand trial within six months from the date of the original commitment, the court shall order the ~~secretary of social and rehabilitation~~ *secretary of social and rehabilitation for aging and disability* services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto. When a defendant is charged with any off-grid felony, any nondrug severity level 1

through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5505, subsection (b) of 21-5506, subsection (b) of 21-5508, subsection (b) of 21-5604 or subsection (b) of 21-5812, and amendments thereto, and commitment proceedings have commenced, for such proceeding, “mentally ill person subject to involuntary commitment for care and treatment” means a mentally ill person, as defined in subsection (e) of K.S.A. 59-2946, and amendments thereto, who is likely to cause harm to self and others, as defined in subsection (f)(3) of K.S.A. 59-2946, and amendments thereto. The other provisions of subsection (f) of K.S.A. 59-2946, and amendments thereto, shall not apply.

(3) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is competent, the court in which the criminal case is pending shall conduct a hearing in accordance with K.S.A. 22-3302, and amendments thereto, to determine the person’s present mental condition. Such court shall give reasonable notice of such hearings to the prosecuting attorney, the defendant, ~~and the defendant’s attorney of record, if any, and the secretary of corrections for the purpose of providing.~~ *The prosecuting attorney shall provide* victim notification. If the court, following such hearing, finds the defendant to be competent, the proceedings pending against the defendant shall be resumed.

(4) A defendant committed to a public institution under the provisions of this section who is thereafter sentenced for the crime charged at the time of commitment may be credited with all or any part of the time during which the defendant was committed and confined in such public institution.

Sec. 2. K.S.A. 2013 Supp. 22-3305 is hereby amended to read as follows: 22-3305. (1) Whenever involuntary commitment proceedings have been commenced by the ~~secretary of social and rehabilitation for aging and disability~~ *secretary of social and rehabilitation for aging and disability* services as required by K.S.A. 22-3303, and amendments thereto, and the defendant is not committed to a treatment facility as a patient, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303, and amendments thereto. The ~~secretary of social and rehabilitation for aging and disability~~ *secretary of social and rehabilitation for aging and disability* services shall promptly notify the court; *and the county or district attorney of the county in which the criminal proceedings are pending and the secretary of corrections for the purpose of providing victim notification, of the result of the involuntary commitment proceeding.*

(2) Whenever involuntary commitment proceedings have been commenced by the ~~secretary of social and rehabilitation for aging and disability~~ *secretary of social and rehabilitation for aging and disability* services as required by K.S.A. 22-3303, and amendments thereto, and the defendant is committed to a treatment facility as a patient but thereafter is to be discharged pursuant to the care and treatment act for mentally ill persons, the defendant shall remain in the institution where

committed pursuant to K.S.A. 22-3303, and amendments thereto, and the head of the treatment facility shall promptly notify the court; *and* the county or district attorney of the county in which the criminal proceedings are pending ~~and the secretary of corrections~~ for the purpose of providing victim notification, that the defendant is to be discharged.

When giving notification to the court; *and* the county or district attorney ~~and the secretary of corrections~~ pursuant to subsection (1) or (2), the treatment facility shall include in such notification an opinion from the head of the treatment facility as to whether or not the defendant is now competent to stand trial. Upon request of the county or district attorney, the court may set a hearing on the issue of whether or not the defendant has been restored to competency. If such hearing request is granted, ~~the court shall notify the secretary of corrections of the hearing date for the purpose of victim notification~~ *county or district attorney shall provide victim notification regarding the hearing date.* If no such request is made within 14 days after receipt of notice pursuant to subsection (1) or (2), the court shall order the defendant to be discharged from commitment and shall dismiss without prejudice the charges against the defendant, and the period of limitation for the prosecution for the crime charged shall not continue to run until the defendant has been determined to have attained competency in accordance with K.S.A. 22-3302, and amendments thereto. ~~The court shall notify the secretary of corrections of the discharge order for the purpose of providing victim notification~~ *The county or district attorney shall provide victim notification regarding the discharge order.*

Sec. 3. K.S.A. 2013 Supp. 22-3428 is hereby amended to read as follows: 22-3428. (1) (a) When a defendant is acquitted and the jury answers in the affirmative to the special question asked pursuant to K.S.A. 22-3221, and amendments thereto, the defendant shall be committed to the state security hospital for safekeeping and treatment ~~and the court shall notify the secretary of corrections for the purpose of providing~~ *county or district attorney shall provide* victim notification. A finding of not guilty and the jury answering in the affirmative to the special question asked pursuant to K.S.A. 22-3221, and amendments thereto, shall be prima facie evidence that the acquitted defendant is presently likely to cause harm to self or others.

(b) Within 90 days of the defendant's admission, the chief medical officer of the state security hospital shall send to the court a written evaluation report. Upon receipt of the report, the court shall set a hearing to determine whether or not the defendant is currently a mentally ill person. The hearing shall be held within 30 days after the receipt by the court of the chief medical officer's report.

(c) The court shall give notice of the hearing to the chief medical officer of the state security hospital, the district or county attorney, the

defendant; ~~and the defendant's attorney and the secretary of corrections for the purpose of providing.~~ *The county or district attorney shall provide victim notification.* The court shall inform the defendant that such defendant is entitled to counsel and that counsel will be appointed to represent the defendant if the defendant is not financially able to employ an attorney as provided in K.S.A. 22-4503 et seq., and amendments thereto. The defendant shall remain at the state security hospital pending the hearing.

(d) At the hearing, the defendant shall have the right to present evidence and cross-examine witnesses. At the conclusion of the hearing, if the court finds by clear and convincing evidence that the defendant is not currently a mentally ill person, the court shall dismiss the criminal proceeding and discharge the defendant, otherwise the court may commit the defendant to the state security hospital for treatment or may place the defendant on conditional release pursuant to subsection (4). ~~The court shall notify the secretary of corrections of the outcome of the hearing for the purpose of providing victim notification.~~ *The county or district attorney shall provide victim notification regarding the outcome of the hearing.*

(2) Subject to the provisions of subsection (3):

(a) Whenever it appears to the chief medical officer of the state security hospital that a person committed under subsection (1)(d) is not likely to cause harm to other persons in a less restrictive hospital environment, the officer may transfer the person to any state hospital, subject to the provisions of subsection (3). At any time subsequent thereto during which such person is still committed to a state hospital, if the chief medical officer of that hospital finds that the person may be likely to cause harm or has caused harm, to others, such officer may transfer the person back to the state security hospital.

(b) Any person committed under subsection (1)(d) may be granted conditional release or discharge as an involuntary patient.

(3) Before transfer of a person from the state security hospital pursuant to subsection (2)(a) or conditional release or discharge of a person pursuant to subsection (2)(b), the chief medical officer of the state security hospital or the state hospital where the patient is under commitment shall give notice to the district court of the county from which the person was committed that transfer of the patient is proposed or that the patient is ready for proposed conditional release or discharge. Such notice shall include, but not be limited to: (a) Identification of the patient; (b) the course of treatment; (c) a current assessment of the defendant's mental illness; (d) recommendations for future treatment, if any; and (e) recommendations regarding conditional release or discharge, if any. Upon receiving notice, the district court shall order that a hearing be held on the proposed transfer, conditional release or discharge. The court shall give notice of the hearing to the state hospital or state security hospital where the patient is under commitment, to the district or county attorney

of the county from which the person was originally ordered committed ~~and the secretary of corrections for the purpose of providing victim notification.~~ *The county or district attorney shall provide victim notification regarding the hearing.* The court shall order the involuntary patient to undergo a mental evaluation by a person designated by the court. A copy of all orders of the court shall be sent to the involuntary patient and the patient's attorney. The report of the court ordered mental evaluation shall be given to the district or county attorney, the involuntary patient and the patient's attorney at least seven days prior to the hearing. The hearing shall be held within 30 days after the receipt by the court of the chief medical officer's notice. The involuntary patient shall remain in the state hospital or state security hospital where the patient is under commitment until the hearing on the proposed transfer, conditional release or discharge is to be held. At the hearing, the court shall receive all relevant evidence, including the written findings and recommendations of the chief medical officer of the state security hospital or the state hospital where the patient is under commitment, and shall determine whether the patient shall be transferred to a less restrictive hospital environment or whether the patient shall be conditionally released or discharged. The patient shall have the right to present evidence at such hearing and to cross-examine any witnesses called by the district or county attorney. At the conclusion of the hearing, if the court finds by clear and convincing evidence that the patient will not be likely to cause harm to self or others if transferred to a less restrictive hospital environment, the court shall order the patient transferred. If the court finds by clear and convincing evidence that the patient is not currently a mentally ill person, the court shall order the patient discharged or conditionally released; otherwise, the court shall order the patient to remain in the state security hospital or state hospital where the patient is under commitment. If the court orders the conditional release of the patient in accordance with subsection (4), the court may order as an additional condition to the release that the patient continue to take prescribed medication and report as directed to a person licensed to practice medicine and surgery to determine whether or not the patient is taking the medication or that the patient continue to receive periodic psychiatric or psychological treatment. ~~The court shall notify the secretary of corrections of the outcome of the hearing for the purpose of providing victim notification.~~ *The county or district attorney shall notify any victims of the outcome of the hearing.*

(4) In order to ensure the safety and welfare of a patient who is to be conditionally released and the citizenry of the state, the court may allow the patient to remain in custody at a facility under the supervision of the secretary of ~~social and rehabilitation~~ *for aging and disability services* for a period of time not to exceed 45 days in order to permit sufficient time for the secretary to prepare recommendations to the court for a suitable reentry program for the patient and allow adequate time for the

~~secretary of corrections~~ county or district attorney to provide victim notification. The reentry program shall be specifically designed to facilitate the return of the patient to the community as a functioning, self-supporting citizen, and may include appropriate supportive provisions for assistance in establishing residency, securing gainful employment, undergoing needed vocational rehabilitation, receiving marital and family counseling, and such other outpatient services that appear beneficial. If a patient who is to be conditionally released will be residing in a county other than the county where the district court that ordered the conditional release is located, the court shall transfer venue of the case to the district court of the other county and send a copy of all of the court's records of the proceedings to the other court. In all cases of conditional release the court shall: (a) Order that the patient be placed under the temporary supervision of district court probation and parole services, community treatment facility or any appropriate private agency; and (b) require as a condition precedent to the release that the patient agree in writing to waive extradition in the event a warrant is issued pursuant to K.S.A. 22-3428b, and amendments thereto.

(5) At any time during the conditional release period, a conditionally released patient, through the patient's attorney, or the county or district attorney of the county in which the district court having venue is located may file a motion for modification of the conditions of release, and the court shall hold an evidentiary hearing on the motion within 14 days of its filing. The court shall give notice of the time for the hearing to the patient and the county or district attorney. If the court finds from the evidence at the hearing that the conditional provisions of release should be modified or vacated, it shall so order. If at any time during the transitional period the designated medical officer or supervisory personnel or the treatment facility informs the court that the patient is not satisfactorily complying with the provisions of the conditional release, the court, after a hearing for which notice has been given to the county or district attorney and the patient, may make orders: (a) For additional conditions of release designed to effect the ends of the reentry program; (b) requiring the county or district attorney to file a petition to determine whether the patient is a mentally ill person as provided in K.S.A. 59-2957, and amendments thereto; or (c) requiring that the patient be committed to the state security hospital or any state hospital. In cases where a petition is ordered to be filed, the court shall proceed to hear and determine the petition pursuant to the care and treatment act for mentally ill persons and that act shall apply to all subsequent proceedings. If a patient is committed to any state hospital pursuant to this act the ~~secretary of social and rehabilitation services shall notify the secretary of corrections for the purpose of providing~~ county or district attorney shall provide victim notification. The costs of all proceedings, the mental evaluation and the reentry program

authorized by this section shall be paid by the county from which the person was committed.

(6) In any case in which the defense that the defendant lacked the required mental state pursuant to K.S.A. 22-3220, and amendments thereto, is relied on, the court shall instruct the jury on the substance of this section.

(7) As used in this section and K.S.A. 22-3428a, and amendments thereto:

(a) “Likely to cause harm to self or others” means that the person is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another’s property, or evidenced by behavior causing, attempting or threatening such injury, abuse or neglect.

(b) “Mentally ill person” means any person who:

(A) Is suffering from a severe mental disorder to the extent that such person is in need of treatment; and

(B) is likely to cause harm to self or others.

(c) “Treatment facility” means any mental health center or clinic, psychiatric unit of a medical care facility, psychologist, physician or other institution or individual authorized or licensed by law to provide either inpatient or outpatient treatment to any patient.

Sec. 4. K.S.A. 2013 Supp. 22-3428a is hereby amended to read as follows: 22-3428a. (1) Any person found not guilty, pursuant to K.S.A. 22-3220 and 22-3221, and amendments thereto, who remains in the state security hospital or a state hospital for over one year pursuant to a commitment under K.S.A. 22-3428, and amendments thereto, shall be entitled annually to request a hearing to determine whether or not the person continues to be a mentally ill person. The request shall be made in writing to the district court of the county where the person is hospitalized and shall be signed by the committed person or the person’s counsel. When the request is filed, the court shall give notice of the request to: (a) The county or district attorney of the county in which the person was originally ordered committed; and (b) the chief medical officer of the state security hospital or state hospital where the person is committed. The chief medical officer receiving the notice, or the officer’s designee, shall conduct a mental examination of the person and shall send to the district court of the county where the person is hospitalized and to the county or district attorney of the county in which the person was originally ordered committed a report of the examination within 21 days from the date when notice from the court was received. Within 14 days after receiving the report of the examination, the county or district attorney receiving it may file a motion with the district court that gave the notice, requesting the court to change the venue of the hearing to the district court of the county in which the person was originally committed, or the court that gave the

notice on its own motion may change the venue of the hearing to the district court of the county in which the person was originally committed. Upon receipt of that motion and the report of the mental examination or upon the court's own motion, the court shall transfer the hearing to the district court specified in the motion and send a copy of the court's records of the proceedings to that court.

(2) After the time in which a change of venue may be requested has elapsed, the court having venue shall set a date for the hearing, giving notice thereof to the county or district attorney of the county, the committed person, ~~and the person's counsel and the secretary of corrections for the purpose of providing victim notification.~~ *The county or district attorney shall provide victim notification.* If there is no counsel of record, the court shall appoint a counsel for the committed person. The committed person shall have the right to procure, at the person's own expense, a mental examination by a physician or licensed psychologist of the person's own choosing. If a committed person is financially unable to procure such an examination, the aid to indigent defendants provisions of article 45 of chapter 22 of the Kansas Statutes Annotated, *and amendments thereto*, shall be applicable to that person. A committed person requesting a mental examination pursuant to K.S.A. 22-4508, and amendments thereto, may request a physician or licensed psychologist of the person's own choosing and the court shall request the physician or licensed psychologist to provide an estimate of the cost of the examination. If the physician or licensed psychologist agrees to accept compensation in an amount in accordance with the compensation standards set by the board of supervisors of panels to aid indigent defendants, the judge shall appoint the requested physician or licensed psychologist; otherwise, the court shall designate a physician or licensed psychologist to conduct the examination. Copies of each mental examination of the committed person shall be filed with the court at least seven days prior to the hearing and shall be supplied to the county or district attorney receiving notice pursuant to this section and the committed person's counsel.

(3) At the hearing the committed person shall have the right to present evidence and cross-examine the witnesses. The court shall receive all relevant evidence, including the written findings and recommendations of the chief medical officer of the state security hospital or state hospital where the person is under commitment, and shall determine whether the committed person continues to be a mentally ill person. At the hearing the court may make any order that a court is empowered to make pursuant to subsections (3), (4) and (5) of K.S.A. 22-3428, and amendments thereto. If the court finds by clear and convincing evidence the committed person is not a mentally ill person, the court shall order the person discharged; otherwise, the person shall remain committed or be conditionally released. ~~The court shall notify the secretary of corrections of the outcome of the hearing for the purpose of providing victim notification~~

*The county or district attorney shall provide victim notification regarding the outcome of the hearing.*

(4) Costs of a hearing held pursuant to this section shall be assessed against and paid by the county in which the person was originally ordered committed.

Sec. 5. K.S.A. 2013 Supp. 22-3430 is hereby amended to read as follows: 22-3430. (a) If the report of the examination authorized by K.S.A. 22-3429, and amendments thereto, shows that the defendant is in need of psychiatric care and treatment, that such treatment may materially aid in the defendant's rehabilitation and that the defendant and society are not likely to be endangered by permitting the defendant to receive such psychiatric care and treatment, in lieu of confinement or imprisonment, the trial judge shall have power to commit such defendant to: (1) The state security hospital or any county institution provided for the reception, care, treatment and maintenance of mentally ill persons, if the defendant is convicted of a felony; or (2) any state or county institution provided for the reception, care, treatment and maintenance of mentally ill persons, if the defendant is convicted of a misdemeanor. The court may direct that the defendant be detained in such hospital or institution until further order of the court or until the defendant is discharged under K.S.A. 22-3431, and amendments thereto. ~~The court shall notify the secretary of corrections of the outcome of the hearing for the purpose of providing victim notification.~~ *The county or district attorney shall notify any victims of the outcome of the hearing.* No period of detention under this section shall exceed the maximum term provided by law for the crime of which the defendant has been convicted. The cost of care and treatment provided by a state institution shall be assessed in accordance with K.S.A. 59-2006, and amendments thereto.

(b) No defendant committed to the state security hospital pursuant to this section upon conviction of a felony shall be transferred or released from such hospital except on recommendation of the staff of such hospital.

(c) The defendant may appeal from any order of commitment made pursuant to this section in the same manner and with like effect as if sentence to a jail, or to the custody of the secretary of corrections had been imposed.

Sec. 6. K.S.A. 2013 Supp. 22-3431 is hereby amended to read as follows: 22-3431. (a) Whenever it appears to the chief medical officer of the institution to which a defendant has been committed under K.S.A. 22-3430, and amendments thereto, that the defendant will not be improved by further detention in such institution, the chief medical officer shall give written notice thereof to the district court where the defendant was convicted. Such notice shall include, but not be limited to: (1) Identification of the patient; (2) the course of treatment; (3) a current assess-

ment of the defendant's psychiatric condition; (4) recommendations for future treatment, if any; and (5) recommendations regarding discharge, if any.

(b) Upon receiving such notice, the district court shall order that a hearing be held. The court shall give notice of the hearing to: (1) The state hospital or state security hospital where the defendant is under commitment; (2) the district or county attorney of the county from which the defendant was originally committed; (3) the defendant; *and* (4) the defendant's attorney; ~~and (5) the secretary of corrections for the purpose of providing.~~ *The county or district attorney shall provide* victim notification. The court shall inform the defendant that such defendant is entitled to counsel and that counsel will be appointed to represent the defendant if the defendant is not financially able to employ an attorney as provided in K.S.A. 22-4503 et seq., and amendments thereto. The hearing shall be held within 30 days after the receipt by the court of the chief medical officer's notice.

(c) At the hearing, the defendant shall be sentenced, committed, granted probation, assigned to a community correctional services program, as provided by K.S.A. 75-5291, and amendments thereto, or discharged as the court deems best under the circumstance. ~~The court shall notify the secretary of corrections of the outcome of the hearing for the purpose of providing victim notification.~~ *The county or district attorney shall notify any victims of the outcome of the hearing.* The time spent in a state or local institution pursuant to a commitment under K.S.A. 22-3430, and amendments thereto, shall be credited against any sentence, confinement or imprisonment imposed on the defendant.

Sec. 7. K.S.A. 2013 Supp. 22-3727 is hereby amended to read as follows: 22-3727. (a) Prior to the release of any inmate on parole, conditional release, expiration of sentence or postrelease supervision, if an inmate is released into the community under a program under the supervision of the secretary of corrections, or after the escape of an inmate or death of an inmate while in the secretary of corrections' custody, the secretary of corrections shall give written notice of such release, escape or death to any victim of the inmate's crime who is alive and whose address is known to the secretary or, if the victim is deceased, to the victim's family if the family's address is known to the secretary. Such notice shall be required to be given to the victim or the victim's family only if the inmate was convicted of any crime in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto. *Except for notifications of releases due to a court order, escape or death, notification shall be given at least 14 working days prior to the release of such inmate.* Failure to notify the

victim or the victim's family as provided in this section shall not be a reason for postponement of parole, conditional release or other forms of release.

(b) As used in this section, "victim's family" means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparent or grandparents.

Sec. 8. K.S.A. 2013 Supp. 22-3727a is hereby amended to read as follows: 22-3727a. (a) ~~The secretary of corrections~~ *county or district attorney* shall, as soon as practicable, provide notification as provided in K.S.A. 22-3303, 22-3305, 22-3428, 22-3428a, 22-3430, ~~and 22-3431 and 22-3727~~, and amendments thereto, and upon the escape or death of a committed defendant ~~or inmate~~ while in the custody of the secretary ~~of social and rehabilitation for aging and disability~~ services, to any victim of the ~~defendant or inmate's~~ *defendant's* crime whose address is known to the ~~secretary of corrections~~ *county or district attorney*, and the victim's family, if so requested and the family's addresses are known to the ~~secretary of corrections~~ *county or district attorney*. Such notice shall be required to be given only if the defendant was charged with, ~~or the inmate was convicted of~~, any crime in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto.

(b) As used in this section, "victim's family" means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparent or grandparents.

Sec. 9. K.S.A. 2013 Supp. 22-3303, 22-3305, 22-3428, 22-3428a, 22-3430, 22-3431, 22-3727 and 22-3727a are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 25, 2014.

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## CHAPTER 6

### SENATE BILL No. 284

AN ACT concerning 911 emergency services; relating to the 911 coordinating council, composition, contracting authority, expenses; amending K.S.A. 2013 Supp. 12-5363, 12-5364, 12-5367 and 12-5377 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 12-5363 is hereby amended to read as follows: 12-5363. As used in the Kansas 911 act:

(a) “Consumer” means a person who purchases prepaid wireless service in a retail transaction.

(b) “Department” means the Kansas department of revenue.

(c) “Enhanced 911 service” or “E-911 service” means an emergency telephone service that generally may provide, but is not limited to, selective routing, automatic number identification and automatic location identification features.

(d) “Exchange telecommunications service” means the service that provides local telecommunications exchange access to a service user.

(e) “Governing body” means the board of county commissioners of a county or the governing body of a city.

(f) “Local collection point administrator” or “LCPA” means, on the effective date of this act, the statewide association of cities established by K.S.A. 12-1610e, and amendments thereto, and the statewide association of counties established by K.S.A. 19-2690, and amendments thereto. After January 1, 2012, “local collection point administrator” means the person designated by the 911 coordinating council to serve as the local collection point administrator to collect and distribute 911 fees and 911 state grant fund moneys.

(g) “Multi-line telephone system” means a system comprised of common control units, telephones and control hardware and software providing local telephone service to multiple end-use customers that may include VoIP service and network and premises based systems such as centrex, private branch exchange and hybrid key telephone systems.

(h) “Next generation 911” means 911 service that enables PSAPs to receive Enhanced 911 service calls and emergency calls from Internet Protocol (IP) based technologies and applications that may include text messaging, image, video and data information from callers.

(i) “Person” means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy or any other legal entity.

(j) “Prepaid wireless service” means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

(k) “Place of primary use” has the meaning provided in the mobile telecommunications act as defined by 4 U.S.C. § 116 et seq., as in effect on the effective date of this act.

(l) “Provider” means any person providing exchange telecommunications service, wireless telecommunications service, VoIP service or

other service capable of contacting a PSAP. *A provider may also be a 911 system operator.*

(m) “PSAP” means a public safety answering point operated by a city or county.

(n) “Retail transaction” means the purchase of prepaid wireless service from a seller for any purpose other than resale, not including the use, storage or consumption of such services.

(o) “Seller” means a person who sells prepaid wireless service to another person.

(p) “Service user” means any person who is provided exchange telecommunications service, wireless telecommunications service, VoIP service, prepaid wireless service or any other service capable of contacting a PSAP.

(q) “Subscriber account” means the 10-digit access number assigned to a service user by a provider for the purpose of billing a service user up to the maximum capacity of the simultaneous outbound calling capability of a multi-line telephone system or equivalent service.

(r) “Subscriber radio equipment” means mobile and portable radio equipment installed in vehicles or carried by persons for voice communication with a radio system.

(s) “VoIP service” means voice over internet protocol.

(t) “Wireless telecommunications service” means commercial mobile radio service as defined by 47 C.F.R. § 20.3 as in effect on the effective date of this act.

(u) *“911 call” means any electronic request for emergency response, presented by means of wireline, wireless, VoIP or telecommunications device for the deaf (TDD) technology, text message or any other technology by which a service user initiates an immediate information interchange or conversation with a PSAP.*

(v) *“911 system operator” means any entity that accepts 911 calls from providers, processes those calls and presents those calls to the appropriate PSAP. A “911 system operator” may also be a provider.*

Sec. 2. K.S.A. 2013 Supp. 12-5364 is hereby amended to read as follows: 12-5364. (a) (1) There is hereby created the 911 coordinating council which shall monitor the delivery of 911 services, develop strategies for future enhancements to the 911 system and distribute available grant funds to PSAPs. In as much as possible, the council shall include individuals with technical expertise regarding 911 systems, internet technology and GIS technology.

(2) The 911 coordinating council shall consist of ~~12~~ 13 voting members to be appointed by the governor: Two members representing information technology personnel from government units; one member representing ~~a law enforcement officer~~ *the Kansas sheriff's association*; one member representing *the Kansas association of chiefs of police*; one mem-

ber representing a fire chief; one member recommended by the adjutant general; one member recommended by the Kansas emergency medical services board; one member recommended by the Kansas commission for the deaf and hard of hearing; two members representing PSAPs located in counties with less than 75,000 in population; two members representing PSAPs located in counties with greater than 75,000 in population; and one member representing PSAPs without regard to size. At least two of the members representing PSAPs shall be administrators of a PSAP or have extensive prior 911 experience in Kansas.

(3) Other voting members of the 911 coordinating council shall include: One member of the Kansas house of representatives as appointed by the speaker of the house; one member of the Kansas house of representatives as appointed by the minority leader of the house; one member of the Kansas senate as appointed by the senate president; and one member of the Kansas senate as appointed by the senate minority leader.

(4) The 911 coordinating council shall also include nonvoting members to be appointed by the governor: One member representing rural telecommunications companies recommended by the Kansas rural independent telephone companies; one member representing incumbent local exchange carriers with over 50,000 access lines; one member representing large wireless providers; one member representing VoIP providers; one member recommended by the league of Kansas municipalities; one member recommended by the Kansas association of counties; one member recommended by the Kansas geographic information systems policy board; ~~one member recommended by KAN-ED; one member recommended by the Kansas division office of information systems and communications technology services;~~ and one member, a Kansas resident, recommended by the Mid-America regional council.

(b) (1) Except as provided in subsection (b)(2) and (b)(3), the terms of office for voting members of the 911 coordinating council shall commence on the effective date of this act and shall be subject to reappointment every three years. No voting member shall serve longer than two successive three-year terms. A voting member appointed as a replacement for another voting member may finish the term of the predecessor and may serve two additional successive three-year terms.

(2) The following members, whose terms began on the effective date of this act, shall serve initial terms as follows:

(A) One member representing information technology personnel from government units, one member recommended by the adjutant general, one member representing PSAPs located in counties with less than 75,000 in population and one member representing PSAPs located in counties with greater than 75,000 in population shall serve a term of two years;

(B) one member representing information technology personnel from government units, one member recommended by the Kansas emer-

gency medical services board, one member representing PSAPs located in counties with less than 75,000 in population and one member representing PSAPs without regard to size shall serve a term of three years; and

(C) one member representing a fire chief, one member recommended by the Kansas commission for the deaf and hard of hearing, one member representing ~~a law enforcement officer~~ *the Kansas association of chiefs of police* and one member representing PSAPs located in counties with greater than 75,000 in population shall serve a term of four years.

(3) *The initial term for one member representing the Kansas sheriff's association shall begin on July 1, 2014, and be for a period of three years.*

(4) The terms of members specified in this subsection shall expire on June 30 in the last year of such member's term.

(c) (1) The governor shall select the chair of the 911 coordinating council, who shall serve at the pleasure of the governor and have extensive prior 911 experience in Kansas.

(2) The chair shall serve as the coordinator of E-911 services and next generation 911 services in the state, implement statewide 911 planning, have the authority to sign all certifications required under 47 C.F.R. part 400 and administer the 911 federal grant fund and 911 state maintenance fund. The chair shall serve subject to the direction of the council and ensure that policies adopted by the council are carried out. The chair shall serve as the liaison between the council and the LCPA. The chair shall preside over all meetings of the council and assist the council in effectuating the provisions of this act.

(d) ~~Upon the advice and consent of the legislative coordinating council,~~ The 911 coordinating council, *by an affirmative vote of nine voting members*, shall select the local collection point administrator, pursuant to K.S.A. 2013 Supp. 12-5367, and amendments thereto, to collect 911 fees and to distribute such fees to PSAPs and to distribute 911 state grant fund moneys as directed by the council. The council shall adopt rules and regulations for the terms of the contract with the LCPA. All contract terms and conditions shall satisfy all contract requirements as established by the secretary of administration. ~~The council may, pursuant to rules and regulations, increase the duration of the contract with the LCPA to a maximum of three years.~~ The council shall determine the compensation of the LCPA who, ~~after January 1, 2012,~~ shall provide the council with any staffing necessary in carrying out the business of the council or effectuating the provisions of this act. ~~Prior to January 1, 2012, the department of administration shall provide the council with any staffing necessary in carrying out the business of the council or effectuating the provisions of this act.~~ The moneys used to reimburse these expenses shall be paid from the 911 state grant fund, pursuant to subsection (i).

(e) The 911 coordinating council is hereby authorized to adopt rules and regulations necessary to effectuate the provisions of this act, includ-

ing, but not limited to, creating a uniform reporting form designating how moneys, including 911 fees, have been spent by the PSAPs, requiring service providers to notify the council pursuant to subsection (j), setting standards for coordinating and purchasing equipment, recommending standards for training of PSAP personnel and assessing civil penalties. The chair of the council shall work with the council to develop rules and regulations necessary for the distribution of moneys in the 911 federal grant fund. The council shall work with the chair to carry out the provisions of this act. Rules and regulations necessary to begin administration of this act shall be adopted by December 31, 2011.

(f) The council may, pursuant to rules and regulations, raise or lower the 911 fee upon a finding based on information submitted on the uniform reporting forms, that moneys generated by such fee are in excess of or below the costs required to operate PSAPs in the state. The council shall not set the 911 fee above \$.60.

(g) The council may appoint subcommittees as necessary to administer grants, oversee collection and distribution of moneys by the LCPA, develop technology standards, develop training recommendations and other issues as deemed necessary by the council. Subcommittees, if appointed, shall include members of the council and other persons as needed.

(h) The council may reimburse independent contractors or state agencies for expenses incurred in carrying out the business of the council, including salaries, that are directly attributable to effectuating the provisions of this act. The moneys used to reimburse these expenses shall be paid from the 911 state grant fund, pursuant to subsection (i).

(i) All expenses related to the council shall be paid from the 911 state grant fund. No more than ~~1.5~~ 2.5% of the total receipts from providers and the department received by the LCPA shall be used to pay for such expenses. Members of the council *and other persons appointed to subcommittees by the council* may receive reimbursement for meals and travel expenses, but shall serve without other compensation with the exception of legislative members.

(j) Every provider shall submit contact information for the provider to the council prior to January 1, 2012. Any provider that has not previously provided wireless telecommunications service in this state shall submit contact information for the provider to the council within three months of first offering wireless telecommunications services in this state.

(k) Each PSAP shall file with the council, by March 1, 2012, and every March 1 thereafter, a report demonstrating how such PSAP has spent the moneys earned from the 911 fee during the preceding calendar year. The council shall designate the content and form of such report.

(l) The council, upon a finding that a provider has violated any provision of this act, may impose a civil penalty. No civil penalty shall be imposed pursuant to this section except upon the written order of the

council. Such order shall state the violation, the penalty to be imposed and the right of such person to appeal to a hearing before the council. Any such person may, within 15 days after service of the order, make a written request to the council for a hearing thereon. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(m) Any action of the council pursuant to subsection (l) is subject to review in accordance with the Kansas judicial review act.

(n) Any civil penalty recovered pursuant to this section shall be transferred to the LCPA for deposit in the 911 state grant fund.

(o) As long as the provider is working in good faith to comply with the provisions of this act, no civil penalty shall be imposed prior to January 1, 2013.

(p) The 911 coordinating council shall make an annual report, to include a detailed description of all expenditures made from 911 fees received by the PSAPs, to the house committee on ~~energy and utilities~~ *and telecommunications* and the senate committee on utilities.

Sec. 3. K.S.A. 2013 Supp. 12-5367 is hereby amended to read as follows: 12-5367. ~~Upon the advice and consent of the legislative coordinating council,~~ The 911 coordinating council, *by an affirmative vote of nine voting members*, shall select the local collection point administrator. In selecting the LCPA, the council shall contract with the LCPA for services for no longer than two years, *however, the council may, by an affirmative vote of nine voting members, extend such contract for up to two additional years.* *The 911 coordinating council shall receive the advice and consent of the legislative coordinating council in selecting an LCPA if the entity to be designated as the LCPA is different than the previous entity designated as the LCPA.* The 911 coordinating council ~~and the legislative coordinating council~~ shall annually review the designation of the LCPA and the contract with the LCPA for services. The LCPA shall be subject to the requirements of the Kansas open meetings act, the Kansas open records act and shall treat all moneys received as public funds pursuant to article 14 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto. Notwithstanding any other provision of law to the contrary, the LCPA shall not be considered a state agency.

Sec. 4. K.S.A. 2013 Supp. 12-5377 is hereby amended to read as follows: 12-5377. (a) The receipts and disbursements of the LCPA shall be audited yearly by a licensed municipal accountant or certified public accountant.

(b) The LCPA may require an audit of any provider's books and records concerning the collection and remittance of fees pursuant to this act. The cost of any such audit shall be paid from the 911 state grant fund.

(c) On or before December 31, 2013, and at least once every three

years thereafter, the division of post audit shall conduct an audit of the 911 system to determine: (1) Whether the moneys received by PSAPs pursuant to this act are being used appropriately; (2) whether the amount of moneys collected pursuant to this act is adequate; and (3) the status of 911 service implementation. The auditor to conduct such audit shall be specified in accordance with K.S.A. 46-1122, and amendments thereto. The post auditor shall compute the reasonably anticipated cost of providing audits pursuant to this subsection, subject to review and approval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the 911 state grant fund shall reimburse the division of post audit for the amount approved by the contract audit committee. The audit report shall be submitted to the 911 coordinating council, the LCPA, the house ~~energy and utilities~~ committee on *utilities and telecommunications* and the senate ~~utilities~~ committee on *utilities*.

(d) The legislature shall review this act at the regular 2014 legislative session and at the regular legislative session every five years thereafter.

(e) This section shall take effect on and after January 1, 2012.

Sec. 5. K.S.A. 2013 Supp. 12-5363, 12-5364, 12-5367 and 12-5377 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 25, 2014.

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## CHAPTER 7

### HOUSE BILL No. 2470

AN ACT concerning the state board of regents; relating to state educational institutions; pertaining to the purchase of certain insurance; amending K.S.A. 2013 Supp. 75-4101 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 75-4101 is hereby amended to read as follows: 75-4101. (a) There is hereby created a committee on surety bonds and insurance, which shall consist of the state treasurer, the attorney general and the commissioner of insurance or their respective designees. The commissioner of insurance shall be the chairperson of the committee and the director of purchases or the director's designee shall be ex officio secretary. The committee shall meet on call of the chairperson and at such other times as the committee shall determine but at least once each month on the second Monday in each month. Meetings shall be held in the office of the commissioner of insurance. The members of the com-

mittee shall serve without compensation. The secretary shall be the custodian of all property, records and proceedings of the committee. Except as provided in this section and K.S.A. 74-4925, 74-4927, 75-6501 through 75-6511 and K.S.A. 76-749, and amendments thereto, no state agency shall purchase any insurance of any kind or nature or any surety bonds upon state officers or employees, except as provided in this act. Except as otherwise provided in this section, health care coverage and health care services of a health maintenance organization for state officers and employees designated under subsection (c) of K.S.A. 75-6501, and amendments thereto, shall be provided in accordance with the provisions of K.S.A. 75-6501 through 75-6511, and amendments thereto.

(b) The Kansas turnpike authority may purchase group life, health and accident insurance or health care services of a health maintenance organization for its employees or members of the highway patrol assigned, by contract or agreement entered pursuant to K.S.A. 68-2025, and amendments thereto, to police toll or turnpike facilities, independent of the committee on surety bonds and insurance and of the provisions of K.S.A. 75-6501 through 75-6511, and amendments thereto. Such authority may purchase liability insurance covering all or any part of its operations and may purchase liability and related insurance upon all vehicles owned or operated by the authority independent of the committee on surety bonds and insurance and such insurance may be purchased without complying with K.S.A. 75-3738 through 75-3744, and amendments thereto. Any board of county commissioners may purchase such insurance or health care services, independent of such committee, for district court officers and employees any part of whose total salary is payable by the county. Nothing in any other provision of the laws of this state shall be construed as prohibiting members of the highway patrol so assigned to police toll or turnpike facilities from receiving compensation in the form of insurance or health maintenance organization coverage as herein authorized.

(c) The agencies of the state sponsoring a foster grandparent or senior companion program, or both, shall procure a policy of accident, personal liability and excess automobile liability insurance insuring volunteers participating in such programs against loss in accordance with specifications of federal grant guidelines. Such agencies may purchase such policy of insurance independent of the committee on surety bonds and insurance and without complying with K.S.A. 75-3738 through 75-3744, and amendments thereto.

(d) Any ~~postsecondary~~ ~~state~~ educational institution as defined by K.S.A. ~~74-3201b~~ 76-711, and amendments thereto, may purchase insurance of any kind or nature except employee health insurance. Such insurance shall be purchased on a competitively bid or competitively negotiated basis in accordance with procedures prescribed by the state board of regents. Such insurance may be purchased independent of the

committee on surety bonds and insurance and without complying with K.S.A. 75-3738 through 75-3744, and amendments thereto. ~~Such insurance shall be purchased from an insurance company authorized to transact business in the state of Kansas.~~

(e) The state board of regents may enter into one or more group insurance contracts to provide health and accident insurance coverage or health care services of a health maintenance organization for all students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, and such students' dependents, except that such insurance shall not provide coverage for elective procedures that are not medically necessary as determined by a treating physician. The participation by a student in such coverage shall be voluntary. In the case of students who are employed by a state educational institution in a student position, the level of employer contributions toward such coverage shall be determined by the board of regents. The board of regents may adopt rules and regulations necessary to administer and implement the provisions of this section.

Sec. 2. K.S.A. 2013 Supp. 75-4101 is hereby repealed.

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

Approved March 31, 2014.

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## CHAPTER 8

### HOUSE BILL No. 2544

AN ACT concerning postsecondary educational institutions; relating to distance education; state authorization reciprocity agreement; amending K.S.A. 2013 Supp. 74-32,164 and repealing the existing section.

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

New Section 1. (a) As used in this section:

(1) "Community college" means any community college established under the laws of this state;

(2) "distance education" means any course or program offered by a postsecondary educational institution to students who are located in a state in which the postsecondary educational institution does not have a physical presence;

(3) "independent postsecondary educational institution" means any postsecondary educational institution which was granted approval to confer academic or honorary degrees by the state board of education under the provisions of K.S.A. 17-6105, prior to its repeal;

(4) “municipal university” means Washburn university of Topeka or any other municipal university established under the laws of this state;

(5) “out-of-state postsecondary educational institution” has the meaning ascribed thereto in K.S.A. 2013 Supp. 74-32,163, and amendments thereto;

(6) “postsecondary educational institution” means any degree-granting public postsecondary educational institution, independent postsecondary educational institution, private postsecondary educational institution and out-of-state postsecondary educational institution;

(7) “private postsecondary educational institution” has the meaning ascribed thereto in K.S.A. 2013 Supp. 74-32,163, and amendments thereto;

(8) “public postsecondary educational institution” means any state educational institution, municipal university, community college and technical college, and includes any entity resulting from the consolidation or affiliation of any two or more of such public postsecondary educational institutions;

(9) “state authorization reciprocity agreement” means an agreement among states, districts and territories that establishes comparable standards for providing distance education from their postsecondary educational institutions to out-of-state students;

(10) “state board” means the state board of regents;

(11) “state educational institution” means any state educational institution, as defined in K.S.A. 76-711, and amendments thereto; and

(12) “technical college” means any technical college established under the laws of this state.

(b) The state board is authorized to enter into the state authorization reciprocity agreement for the purposes of:

(1) Authorizing and allowing any postsecondary educational institution with a physical presence in Kansas to voluntarily participate in the state authorization reciprocity agreement and provide distance education in other states in accordance with the terms of the state authorization reciprocity agreement; and

(2) authorizing and allowing any postsecondary educational institution that does not have a physical presence in Kansas and that is a participating member of the state authorization reciprocity agreement to deliver distance education in this state in accordance with the terms of the state authorization reciprocity agreement, notwithstanding the provisions of the private and out-of-state postsecondary education institution act.

(c) A postsecondary educational institution shall be deemed to have a “physical presence” in the state if the postsecondary education institution:

(1) Has established a campus, branch instructional facility or administrative office within the boundaries of the state;

(2) requires students to physically meet for instruction within the state more than twice per full term;

(3) provides information from a physical site located within the state;

(4) offers short courses within the state requiring 10 or more hours of attendance by students; or

(5) maintains a mailing address or phone exchange in the state.

(d) The state board may assume and exercise all powers, duties and responsibilities associated with and required under the terms of the state authorization reciprocity agreement for any postsecondary educational institution which has a physical presence in the state and has voluntarily submitted to the jurisdiction of the state board to the extent required to enable the postsecondary educational institution to participate in the state authorization reciprocity agreement.

(e) The state board may terminate membership or participation of any postsecondary educational institution with a physical presence in Kansas that is participating in the state authorization reciprocity agreement if the state board has reasonable cause to believe that the postsecondary educational institution is in violation of any provision of this section.

(f) The state board shall be authorized to recover actual costs incurred in the course of investigating and prosecuting complaints against a postsecondary educational institution that is participating in the state authorization reciprocity agreement, and shall be able to recoup tuition on behalf of any student. The amount collected by the state board for the actual costs related to the investigation and prosecution of the complaint or for tuition on behalf of any student, as certified by the president or chief executive officer of the state board to the state treasurer, shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the state authorization reciprocity fund.

(g) There is hereby established in the state treasury the state authorization reciprocity fund which shall be administered by the state board. All expenditures from the state authorization reciprocity fund shall be for reimbursement to the state board for any costs associated with investigating and prosecuting complaints and recovering tuition on behalf of any student under the provisions of the state authorization reciprocity agreement. All expenditures from the state authorization reciprocity fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president or chief executive officer of the state board or the designee of the president or chief executive officer of the state board.

(h) Nothing in this section shall preclude the state board from exercising its authority under any other provision of law, nor the attorney general from pursuing violations of any provisions of the Kansas consumer protection act.

(i) The state board may adopt rules and regulations as necessary to implement the provisions of this section.

Sec. 2. K.S.A. 2013 Supp. 74-32,164 is hereby amended to read as follows: 74-32,164. The Kansas private and out-of-state postsecondary educational institution act shall not apply to:

(a) An institution supported primarily by Kansas taxation from either a local or state source;

(b) an institution or training program which offers instruction only for avocational or recreational purposes as determined by the state board;

(c) a course or courses of instruction or study, excluding degree-granting programs, sponsored by an employer for the training and preparation of its own employees, and for which no tuition or other fee is charged to the student;

(d) a course or courses of instruction or study sponsored by a recognized trade, business or professional organization having a closed membership for the instruction of the members of the organization, and for which no tuition or other fee is charged to the student;

(e) an institution which is otherwise regulated and approved under any other law of this state;

(f) a course or courses of special study or instruction having a closed enrollment and financed or subsidized on a contract basis by local or state government, private industry, or any person, firm, association or agency, other than the student involved;

(g) an institution financed or subsidized by federal or special funds which has applied to the state board for exemption from the provisions of this act and which has been declared exempt by the state board because it has found that the operation of such institution is outside the purview of this act;

(h) ~~the Kansas City college and bible school, inc.;~~~~and~~

(i) any postsecondary educational institution which was granted approval to confer academic or honorary degrees by the state board of education under the provisions of K.S.A. 17-6105, prior to its repeal; *and*

(j) *any institution that does not have a physical presence in Kansas and that is otherwise subject to this act, but only to the extent that and for the period of time that such institution is participating in the state authorization reciprocity agreement as authorized under section 1, and amendments thereto, for the purpose of providing distance education to students in this state. As used in this subsection, the term "distance education" has the meaning ascribed thereto in section 1, and amendments thereto.*

Sec. 3. K.S.A. 2013 Supp. 74-32,164 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 9

## SENATE BILL No. 371

AN ACT concerning employment security; relating to disposition of certain penalties; confidentiality and disclosure of certain information; amending K.S.A. 2013 Supp. 44-706 and 44-714 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 44-706 is hereby amended to read as follows: 44-706. An individual shall be disqualified for benefits:

(a) If the individual left work voluntarily without good cause attributable to the work or the employer, subject to the other provisions of this subsection. For purposes of this subsection, “good cause” is cause of such gravity that would impel a reasonable, not supersensitive, individual exercising ordinary common sense to leave employment. Good cause requires a showing of good faith of the individual leaving work, including the presence of a genuine desire to work. Failure to return to work after expiration of approved personal or medical leave, or both, shall be considered a voluntary resignation. After a temporary job assignment, failure of an individual to affirmatively request an additional assignment on the next succeeding workday, if required by the employment agreement, after completion of a given work assignment, shall constitute leaving work voluntarily. The disqualification shall begin the day following the separation and shall continue until after the individual has become reemployed and has had earnings from insured work of at least three times the individual’s weekly benefit amount. An individual shall not be disqualified under this subsection if:

(1) The individual was forced to leave work because of illness or injury upon the advice of a licensed and practicing health care provider and, upon learning of the necessity for absence, immediately notified the employer thereof, or the employer consented to the absence, and after recovery from the illness or injury, when recovery was certified by a practicing health care provider, the individual returned to the employer and offered to perform services and the individual’s regular work or comparable and suitable work was not available. As used in this paragraph “health care provider” means any person licensed by the proper licensing authority of any state to engage in the practice of medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

(2) the individual left temporary work to return to the regular employer;

(3) the individual left work to enlist in the armed forces of the United States, but was rejected or delayed from entry;

(4) the spouse of an individual who is a member of the armed forces of the United States who left work because of the voluntary or involuntary transfer of the individual’s spouse from one job to another job, which is for the same employer or for a different employer, at a geographic loca-

tion which makes it unreasonable for the individual to continue work at the individual's job. For the purposes of this provision the term "armed forces" means active duty in the army, navy, marine corps, air force, coast guard or any branch of the military reserves of the United States;

(5) the individual left work because of hazardous working conditions; in determining whether or not working conditions are hazardous for an individual, the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness and prior training and the working conditions of workers engaged in the same or similar work for the same and other employers in the locality shall be considered; as used in this paragraph, "hazardous working conditions" means working conditions that could result in a danger to the physical or mental well-being of the individual; each determination as to whether hazardous working conditions exist shall include, but shall not be limited to, a consideration of: (A) The safety measures used or the lack thereof; and (B) the condition of equipment or lack of proper equipment; no work shall be considered hazardous if the working conditions surrounding the individual's work are the same or substantially the same as the working conditions generally prevailing among individuals performing the same or similar work for other employers engaged in the same or similar type of activity;

(6) the individual left work to enter training approved under section 236(a)(1) of the federal trade act of 1974, provided the work left is not of a substantially equal or higher skill level than the individual's past adversely affected employment, and wages for such work are not less than 80% of the individual's average weekly wage as determined for the purposes of the federal trade act of 1974;

(7) the individual left work because of unwelcome harassment of the individual by the employer or another employee of which the employing unit had knowledge and that would impel the average worker to give up such worker's employment;

(8) the individual left work to accept better work; each determination as to whether or not the work accepted is better work shall include, but shall not be limited to, consideration of: (A) The rate of pay, the hours of work and the probable permanency of the work left as compared to the work accepted; (B) the cost to the individual of getting to the work left in comparison to the cost of getting to the work accepted; and (C) the distance from the individual's place of residence to the work accepted in comparison to the distance from the individual's residence to the work left;

(9) the individual left work as a result of being instructed or requested by the employer, a supervisor or a fellow employee to perform a service or commit an act in the scope of official job duties which is in violation of an ordinance or statute;

(10) the individual left work because of a substantial violation of the

work agreement by the employing unit and, before the individual left, the individual had exhausted all remedies provided in such agreement for the settlement of disputes before terminating. For the purposes of this paragraph, a demotion based on performance does not constitute a violation of the work agreement;

(11) after making reasonable efforts to preserve the work, the individual left work due to a personal emergency of such nature and compelling urgency that it would be contrary to good conscience to impose a disqualification; or

(12) (A) the individual left work due to circumstances resulting from domestic violence, including:

(i) The individual's reasonable fear of future domestic violence at or en route to or from the individual's place of employment;

(ii) the individual's need to relocate to another geographic area in order to avoid future domestic violence;

(iii) the individual's need to address the physical, psychological and legal impacts of domestic violence;

(iv) the individual's need to leave employment as a condition of receiving services or shelter from an agency which provides support services or shelter to victims of domestic violence; or

(v) the individual's reasonable belief that termination of employment is necessary to avoid other situations which may cause domestic violence and to provide for the future safety of the individual or the individual's family.

(B) An individual may prove the existence of domestic violence by providing one of the following:

(i) A restraining order or other documentation of equitable relief by a court of competent jurisdiction;

(ii) a police record documenting the abuse;

(iii) documentation that the abuser has been convicted of one or more of the offenses enumerated in articles 34 and 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, where the victim was a family or household member;

(iv) medical documentation of the abuse;

(v) a statement provided by a counselor, social worker, health care provider, clergy, shelter worker, legal advocate, domestic violence or sexual assault advocate or other professional who has assisted the individual in dealing with the effects of abuse on the individual or the individual's family; or

(vi) a sworn statement from the individual attesting to the abuse.

(C) No evidence of domestic violence experienced by an individual, including the individual's statement and corroborating evidence, shall be

disclosed by the department of labor unless consent for disclosure is given by the individual.

(b) If the individual has been discharged or suspended for misconduct connected with the individual's work. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and in cases where the disqualification is due to discharge for misconduct has had earnings from insured work of at least three times the individual's determined weekly benefit amount, except that if an individual is discharged for gross misconduct connected with the individual's work, such individual shall be disqualified for benefits until such individual again becomes employed and has had earnings from insured work of at least eight times such individual's determined weekly benefit amount. In addition, all wage credits attributable to the employment from which the individual was discharged for gross misconduct connected with the individual's work shall be canceled. No such cancellation of wage credits shall affect prior payments made as a result of a prior separation.

(1) For the purposes of this subsection, "misconduct" is defined as a violation of a duty or obligation reasonably owed the employer as a condition of employment including, but not limited to, a violation of a company rule, including a safety rule, if: (A) The individual knew or should have known about the rule; (B) the rule was lawful and reasonably related to the job; and (C) the rule was fairly and consistently enforced.

(2) (A) Failure of the employee to notify the employer of an absence and an individual's leaving work prior to the end of such individual's assigned work period without permission shall be considered prima facie evidence of a violation of a duty or obligation reasonably owed the employer as a condition of employment.

(B) For the purposes of this subsection, misconduct shall include, but not be limited to, violation of the employer's reasonable attendance expectations if the facts show:

- (i) The individual was absent or tardy without good cause;
- (ii) the individual had knowledge of the employer's attendance expectation; and
- (iii) the employer gave notice to the individual that future absence or tardiness may or will result in discharge.

(C) For the purposes of this subsection, if an employee disputes being absent or tardy without good cause, the employee shall present evidence that a majority of the employee's absences or tardiness were for good cause. If the employee alleges that the employee's repeated absences or tardiness were the result of health related issues, such evidence shall include documentation from a licensed and practicing health care provider as defined in subsection (a)(1).

(3) (A) The term "gross misconduct" as used in this subsection shall be construed to mean conduct evincing extreme, willful or wanton mis-

conduct as defined by this subsection. Gross misconduct shall include, but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to property; (iv) intentional infliction of personal injury; or (v) any conduct that constitutes a felony.

(B) For the purposes of this subsection, the following shall be conclusive evidence of gross misconduct:

(i) The use of alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance by an individual while working;

(ii) the impairment caused by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance by an individual while working;

(iii) a positive breath alcohol test or a positive chemical test, provided:

(a) The test was either:

(1) Required by law and was administered pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq.;

(2) administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;

(3) requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment;

(4) required by law and the test constituted a required condition of employment for the individual's job; or

(5) there was reasonable suspicion to believe that the individual used, had possession of, or was impaired by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance while working;

(b) the test sample was collected either:

(1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et seq.;

(2) as prescribed by an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;

(3) as prescribed by the written policy of the employer of which the employee had knowledge and which constituted a required condition of employment;

(4) as prescribed by a test which was required by law and which constituted a required condition of employment for the individual's job; or

(5) at a time contemporaneous with the events establishing probable cause;

(c) the collecting and labeling of a chemical test sample was performed by a licensed health care professional or any other individual certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or label test samples by federal or state law, or a federal or state rule or regulation having the force or effect of law, including law enforcement personnel;

(d) the chemical test was performed by a laboratory approved by the United States department of health and human services or licensed by the department of health and environment, except that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies;

(e) the chemical test was confirmed by gas chromatography, gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample or a breath alcohol test;

(f) the breath alcohol test was administered by an individual trained to perform breath tests, the breath testing instrument used was certified and operated strictly according to a description provided by the manufacturers and the reliability of the instrument performance was assured by testing with alcohol standards; and

(g) the foundation evidence establishes, beyond a reasonable doubt, that the test results were from the sample taken from the individual;

(iv) an individual's refusal to submit to a chemical test or breath alcohol test, provided:

(a) The test meets the standards of the drug free workplace act, 41 U.S.C. § 701 et seq.;

(b) the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;

(c) the test was otherwise required by law and the test constituted a required condition of employment for the individual's job;

(d) the test was requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment; or

(e) there was reasonable suspicion to believe that the individual used, possessed or was impaired by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance while working;

(v) an individual's dilution or other tampering of a chemical test.

(C) For purposes of this subsection:

(i) "Alcohol concentration" means the number of grams of alcohol per 210 liters of breath;

(ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-102, and amendments thereto;

(iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-2701, and amendments thereto;

(iv) "chemical test" shall include, but is not limited to, tests of urine, blood or saliva;

(v) "controlled substance" shall be defined as provided in K.S.A. 2013 Supp. 21-5701, and amendments thereto;

(vi) "required by law" means required by a federal or state law, a federal or state rule or regulation having the force and effect of law, a

county resolution or municipal ordinance, or a policy relating to public safety adopted in an open meeting by the governing body of any special district or other local governmental entity;

(vii) “positive breath test” shall mean a test result showing an alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R. Part 40, if applicable, unless the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, in which case “positive chemical test” shall mean a test result showing an alcohol concentration at or above the levels provided for in the assistance or treatment program;

(viii) “positive chemical test” shall mean a chemical result showing a concentration at or above the levels listed in K.S.A. 44-501, and amendments thereto, or 49 C.F.R. Part 40, as applicable, for the drugs or abuse listed therein, unless the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, in which case “positive chemical test” shall mean a chemical result showing a concentration at or above the levels provided for in the assistance or treatment program.

(4) An individual shall not be disqualified under this subsection if the individual is discharged under the following circumstances:

(A) The employer discharged the individual after learning the individual was seeking other work or when the individual gave notice of future intent to quit, except that the individual shall be disqualified after the time at which such individual intended to quit and any individual who commits misconduct after such individual gives notice to such individual’s intent to quit shall be disqualified;

(B) the individual was making a good-faith effort to do the assigned work but was discharged due to: (i) Inefficiency; (ii) unsatisfactory performance due to inability, incapacity or lack of training or experience; (iii) isolated instances of ordinary negligence or inadvertence; (iv) good-faith errors in judgment or discretion; or (v) unsatisfactory work or conduct due to circumstances beyond the individual’s control; or

(C) the individual’s refusal to perform work in excess of the contract of hire.

(c) If the individual has failed, without good cause, to either apply for suitable work when so directed by the employment office of the secretary of labor, or to accept suitable work when offered to the individual by the employment office, the secretary of labor, or an employer, such disqualification shall begin with the week in which such failure occurred and shall continue until the individual becomes reemployed and has had earnings from insured work of at least three times such individual’s determined weekly benefit amount. In determining whether or not any work is suitable for an individual, the secretary of labor, or a person or persons

designated by the secretary, shall consider the degree of risk involved to health, safety and morals, physical fitness and prior training, experience and prior earnings, length of unemployment and prospects for securing local work in the individual's customary occupation or work for which the individual is reasonably fitted by training or experience, and the distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible individual shall not be disqualified for refusing an offer of suitable employment, or failing to apply for suitable employment when notified by an employment office, or for leaving the individual's most recent work accepted during approved training, including training approved under section 236(a)(1) of the trade act of 1974, if the acceptance of or applying for suitable employment or continuing such work would require the individual to terminate approved training and no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (1) If the position offered is vacant due directly to a strike, lockout or other labor dispute; (2) if the remuneration, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (3) if as a condition of being employed, the individual would be required to join or to resign from or refrain from joining any labor organization; and (4) if the individual left employment as a result of domestic violence, and the position offered does not reasonably accommodate the individual's physical, psychological, safety, or legal needs relating to such domestic violence.

(d) For any week with respect to which the secretary of labor, or a person or persons designated by the secretary, finds that the individual's unemployment is due to a stoppage of work which exists because of a labor dispute or there would have been a work stoppage had normal operations not been maintained with other personnel previously and currently employed by the same employer at the factory, establishment or other premises at which the individual is or was last employed, except that this subsection (d) shall not apply if it is shown to the satisfaction of the secretary of labor, or a person or persons designated by the secretary, that: (1) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and (2) the individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs any of whom are participating in or financing or directly interested in the dispute. If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection be deemed to be a separate factory, establishment or other premises. For the purposes of this subsection, failure

or refusal to cross a picket line or refusal for any reason during the continuance of such labor dispute to accept the individual's available and customary work at the factory, establishment or other premises where the individual is or was last employed shall be considered as participation and interest in the labor dispute.

(e) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such unemployment benefits, this disqualification shall not apply.

(f) For any week with respect to which the individual is entitled to receive any unemployment allowance or compensation granted by the United States under an act of congress to ex-service men and women in recognition of former service with the military or naval services of the United States.

(g) For the period of five years beginning with the first day following the last week of unemployment for which the individual received benefits, or for five years from the date the act was committed, whichever is the later, if the individual, or another in such individual's behalf with the knowledge of the individual, has knowingly made a false statement or representation, or has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor. In addition to the penalties set forth in K.S.A. 44-719, and amendments thereto, an individual who has knowingly made a false statement or representation or who has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor shall be liable for a penalty in the amount equal to 25% of the amount of benefits unlawfully received. *Notwithstanding any other provision of law, such penalty shall be deposited into the employment security trust fund.*

(h) For any week with respect to which the individual is receiving compensation for temporary total disability or permanent total disability under the workmen's compensation law of any state or under a similar law of the United States.

(i) For any week of unemployment on the basis of service in an instructional, research or principal administrative capacity for an educational institution as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms during such period or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs such services in the first of such academic years or terms and there is a contract or a

reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

(j) For any week of unemployment on the basis of service in any capacity other than service in an instructional, research, or administrative capacity in an educational institution, as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during the period between two successive academic years or terms if the individual performs such services in the first of such academic years or terms and there is a reasonable assurance that the individual will perform such services in the second of such academic years or terms, except that if benefits are denied to the individual under this subsection and the individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subsection.

(k) For any week of unemployment on the basis of service in any capacity for an educational institution as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during an established and customary vacation period or holiday recess, if the individual performs services in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(l) For any week of unemployment on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, if such week begins during the period between two successive sport seasons or similar period if such individual performed services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.

(m) For any week on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the federal immigration and nationality act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable

because of such individual's alien status shall be made except upon a preponderance of the evidence.

(n) For any week in which an individual is receiving a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment under a plan maintained by a base period employer and to which the entire contributions were provided by such employer, except that: (1) If the entire contributions to such plan were provided by the base period employer but such individual's weekly benefit amount exceeds such governmental or other pension, retirement or retired pay, annuity or other similar periodic payment attributable to such week, the weekly benefit amount payable to the individual shall be reduced, but not below zero, by an amount equal to the amount of such pension, retirement or retired pay, annuity or other similar periodic payment which is attributable to such week; or (2) if only a portion of contributions to such plan were provided by the base period employer, the weekly benefit amount payable to such individual for such week shall be reduced, but not below zero, by the prorated weekly amount of the pension, retirement or retired pay, annuity or other similar periodic payment after deduction of that portion of the pension, retirement or retired pay, annuity or other similar periodic payment that is directly attributable to the percentage of the contributions made to the plan by such individual; or (3) if the entire contributions to the plan were provided by such individual, or by the individual and an employer, or any person or organization, who is not a base period employer, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection; or (4) whatever portion of contributions to such plan were provided by the base period employer, if the services performed for the employer by such individual during the base period, or remuneration received for the services, did not affect the individual's eligibility for, or increased the amount of, such pension, retirement or retired pay, annuity or other similar periodic payment, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection. No reduction shall be made for payments made under the social security act or railroad retirement act of 1974.

(o) For any week of unemployment on the basis of services performed in any capacity and under any of the circumstances described in subsection (i), (j) or (k) which an individual performed in an educational institution while in the employ of an educational service agency. For the purposes of this subsection, the term "educational service agency" means a governmental agency or entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(p) For any week of unemployment on the basis of service as a school bus or other motor vehicle driver employed by a private contractor to transport pupils, students and school personnel to or from school-related

functions or activities for an educational institution, as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, if the individual has a contract or contracts, or a reasonable assurance thereof, to perform services in any such capacity with a private contractor for any educational institution for both such academic years or both such terms. An individual shall not be disqualified for benefits as provided in this subsection for any week of unemployment on the basis of service as a bus or other motor vehicle driver employed by a private contractor to transport persons to or from nonschool-related functions or activities.

(q) For any week of unemployment on the basis of services performed by the individual in any capacity and under any of the circumstances described in subsection (i), (j), (k) or (o) which are provided to or on behalf of an educational institution, as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, while the individual is in the employ of an employer which is a governmental entity, Indian tribe or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income under section 501(a) of the code.

(r) For any week in which an individual is registered at and attending an established school, training facility or other educational institution, or is on vacation during or between two successive academic years or terms. An individual shall not be disqualified for benefits as provided in this subsection provided:

(1) The individual was engaged in full-time employment concurrent with the individual's school attendance;

(2) the individual is attending approved training as defined in subsection (s) of K.S.A. 44-703, and amendments thereto; or

(3) the individual is attending evening, weekend or limited day time classes, which would not affect availability for work, and is otherwise eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

(s) For any week with respect to which an individual is receiving or has received remuneration in the form of a back pay award or settlement. The remuneration shall be allocated to the week or weeks in the manner as specified in the award or agreement, or in the absence of such specificity in the award or agreement, such remuneration shall be allocated to the week or weeks in which such remuneration, in the judgment of the secretary, would have been paid.

(1) For any such weeks that an individual receives remuneration in the form of a back pay award or settlement, an overpayment will be established in the amount of unemployment benefits paid and shall be collected from the claimant.

(2) If an employer chooses to withhold from a back pay award or settlement, amounts paid to a claimant while they claimed unemployment

benefits, such employer shall pay the department the amount withheld. With respect to such amount, the secretary shall have available all of the collection remedies authorized or provided in K.S.A. 44-717, and amendments thereto.

(t) (1) Any applicant for or recipient of unemployment benefits who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary of labor, secretary of commerce or secretary for children and families, and a job skills program approved by the secretary of labor, secretary of commerce or the secretary for children and families. Subject to applicable federal laws, any applicant for or recipient of unemployment benefits who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive unemployment benefits until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of unemployment benefits may be subject to periodic drug screening, as determined by the secretary of labor. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or recipient of unemployment benefits shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from unemployment benefits for a period of 12 months, or until such applicant for or recipient of unemployment benefits completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or a recipient of unemployment benefits shall be terminated from receiving unemployment benefits, subject to applicable federal law.

(2) Any individual who has been discharged or refused employment for failing a preemployment drug screen required by an employer may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any such individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening.

(u) If the individual was found not to have a disqualifying adjudication or conviction under K.S.A. 39-970, ~~and amendments thereto~~, or K.S.A. 65-5117, and amendments thereto, was hired and then was subsequently convicted of a disqualifying felony under K.S.A. 39-970, ~~and amendments thereto~~, or K.S.A. 65-5117, and amendments thereto, and discharged pursuant to K.S.A. 39-970, ~~and amendments thereto~~, or K.S.A. 65-5117, and amendments thereto. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and has had earnings from insured work of at least three times the individual's determined weekly benefit amount.

Sec. 2. K.S.A. 2013 Supp. 44-714 is hereby amended to read as follows: 44-714. (a) *Duties and powers of secretary.* It shall be the duty of the secretary to administer this act and the secretary shall have power and authority to adopt, amend or revoke such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as the secretary deems necessary or suitable to that end. Such rules and regulations may be adopted, amended, or revoked by the secretary only after public hearing or opportunity to be heard thereon. The secretary shall determine the organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. The secretary shall make and submit reports for the administration of the employment security law in the manner prescribed by K.S.A. 75-3044 to 75-3046, inclusive, and 75-3048, and amendments thereto. Whenever the secretary believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, the secretary shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

(b) *Publication.* The secretary shall cause to be printed for distribution to the public the text of this act, the secretary's rules and regulations and any other material the secretary deems relevant and suitable and shall furnish the same to any person upon application therefor.

(c) *Personnel.* (1) Subject to other provisions of this act, the secretary is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, deputies, attorneys, experts and other persons as may be necessary in carrying out the provisions of this act. The secretary shall classify all positions and shall establish salary schedules and minimum personnel standards for the positions so classified. The secretary shall provide for the holding of examinations to determine the qualifications of applicants for the positions so classified, and, except to temporary appointments not to exceed six months in duration, shall appoint all personnel on the basis of efficiency and fitness as determined in such examinations. The secretary shall not appoint or employ any person who is an officer or committee member of any political party organization or who holds or is a candidate for a partisan elective public office. The secretary shall adopt and enforce fair and reasonable rules and regulations for appointment, promotions and demotions, based upon ratings of efficiency and fitness and for terminations for cause. The secretary may delegate to any such person so appointed such power and authority as the secretary deems reasonable and proper for the effective administration of this act, and may in the secretary's discretion bond any person handling moneys or signing checks under the employment security law.

(2) No employee engaged in the administration of the employment security law shall directly or indirectly solicit or receive or be in any man-

ner concerned with soliciting or receiving any assistance, subscription or contribution for any political party or political purpose, other than soliciting and receiving contributions for such person's personal campaign as a candidate for a nonpartisan elective public office, nor shall any employee engaged in the administration of the employment security law participate in any form of political activity except as a candidate for a nonpartisan elective public office, nor shall any employee champion the cause of any political party or the candidacy of any person other than such person's own personal candidacy for a nonpartisan elective public office. Any employee engaged in the administration of the employment security law who violates these provisions shall be immediately discharged. No person shall solicit or receive any contribution for any political purpose from any employee engaged in the administration of the employment security law and any such action shall be a misdemeanor and shall be punishable by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail for not less than 30 days nor more than six months, or both.

(d) *Employment stabilization.* The secretary, with the advice and aid of the appropriate divisions of the department of labor, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts and the state, of reserves for public works to be used in time of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(e) *Records and reports.* Each employing unit shall keep true and accurate work records, containing such information as the secretary may prescribe. Such records shall be open to inspection and subject to being copied by the secretary or the secretary's authorized representatives at any reasonable time and shall be preserved for a period of five years from the due date of the contributions or payments in lieu of contributions for the period to which they relate. Only one audit shall be made of any employer's records for any given period of time. Upon request the employing unit shall be furnished a copy of all findings by the secretary or the secretary's authorized representatives, resulting from such audit. A special inquiry or special examination made for a specific and limited purpose shall not be considered to be an audit for the purpose of this subsection. The secretary may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the secretary deems necessary for the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall be held confidential, except to the extent necessary for the proper presentation of a claim by an employer

or employee under the employment security law, and shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the individual's or employing unit's identity. *The secretary may publish or otherwise disclose appeals records and decisions, and precedential determinations on coverage of employers, employment and wages, provided all social security numbers have been removed.* Any claimant or employing unit or their representatives at a hearing before an appeal tribunal or the secretary shall be supplied with information from such records to the extent necessary for the proper presentation of the claim. The transcript made at any such benefits hearing shall not be discoverable or admissible in evidence in any other proceeding, hearing or determination of any kind or nature. In the event of any appeal of a benefits matter, the transcript shall be sealed by the hearing officer and shall be available only to any reviewing authority who shall reseal the transcript after making a review of it. In no event shall such transcript be deemed a public record. Nothing in this subsection (e) shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, upon request of either of the parties, for the purpose of administering or adjudicating a claim for benefits under the provisions of any other state program, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed by this subsection (e) and shall be subject to the penalties imposed by this subsection (e) for violations of such duty of confidentiality. Nothing in this subsection (e) shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, for use as evidence in a criminal investigation or in open court in a criminal prosecution for perjury or at an appeal hearing under the employment security law or for any criminal violation of the employment security law. *Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts to an agent or contractor of a public official to whom disclosure is permissible under the employment security law, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed by this subsection and shall be subject to the penalties imposed by this subsection for violations of such duty of confidentiality.* If the secretary or any officer or employee of the secretary violates any provisions of this subsection (e), the secretary or such officer or employee shall be fined not less than \$20 nor more than \$200 or imprisoned for not longer than 90 days, or both. Original records of the agency and original paid benefit warrants of the state treasurer may be made available to the employment security agency of any other state or the federal government to be used as evidence in prosecution of violations of the employment security law

of such state or federal government. Photostatic copies of such records shall be made and where possible shall be substituted for original records introduced in evidence and the originals returned to the agency.

(f) *Oaths and witnesses.* In the discharge of the duties imposed by the employment security law, the chairperson of an appeal tribunal, an appeals referee, the secretary or any duly authorized representative of the secretary shall have power to administer oaths and affirmations, take depositions, issue interrogatories, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a disputed claim or the administration of the employment security law.

(g) *Subpoenas, service.* Upon request, service of subpoenas shall be made by the sheriff of a county within that county, by the sheriff's deputy, by any other person who is not a party and is not less than 18 years of age or by some person specially appointed for that purpose by the secretary of labor or the secretary's designee. A person not a party as described above or a person specially appointed by the secretary or the secretary's designee to serve subpoenas may make service any place in the state. The subpoena shall be served as follows:

(1) *Individual.* Service upon an individual, other than a minor or incapacitated person, shall be made: (A) By delivering a copy of the subpoena to the individual personally; (B) by leaving a copy at such individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; (C) by leaving a copy at the business establishment of the employer with an officer or employee of the establishment; (D) by delivering a copy to an agent authorized by appointment or by law to receive service of process, but if the agent is one designated by a statute to receive service, such further notice as the statute requires shall be given; or (E) if service as prescribed above in subparagraphs (A), (B), (C) or (D) cannot be made with due diligence, by leaving a copy of the subpoena at the individual's dwelling house, usual place of abode or usual business establishment, and by mailing a notice by first-class mail to the place that the copy has been left.

(2) *Corporations and partnerships.* Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association, when by law it may be sued as such, shall be made by delivering a copy of the subpoena to an officer, partner or resident managing or general agent thereof, or by leaving the copy at any business office of the employer with the person having charge thereof or by delivering a copy to any other agent authorized by appointment or required by law to receive service of process, if the agent is one authorized by law to receive service and, if the law so requires, by also mailing a copy to the employer.

(3) *Refusal to accept service.* In all cases when the person to be served, or an agent authorized by such person to accept service of peti-

tions and summonses shall refuse to receive copies of the subpoena, the offer of the duly authorized process server to deliver copies thereof and such refusal shall be sufficient service of such subpoena.

(4) *Proof of service.* (A) Every officer to whom a subpoena or other process shall be delivered for service within or without the state, shall make return thereof in writing stating the time, place and manner of service of such writ and shall sign such officer's name to such return.

(B) If service of the subpoena is made by a person appointed by the secretary or the secretary's designee to make service, or any other person described in subsection (g) of this section, such person shall make an affidavit as to the time, place and manner of service thereof in a form prescribed by the secretary or the secretary's designee.

(5) *Time for return.* The officer or other person receiving a subpoena shall make a return of service promptly and shall send such return to the secretary or the secretary's designee in any event within 10 days after the service is effected. If the subpoena cannot be served it shall be returned to the secretary or the secretary's designee within 30 days after the date of issue with a statement of the reason for the failure to serve the same.

(h) *Subpoenas, enforcement.* In case of contumacy by or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found, resides or transacts business, upon application by the secretary or the secretary's duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before the secretary, or the secretary's duly authorized representative, to produce evidence, if so ordered, or to give testimony relating to the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as a contempt thereof. Any person who, without just cause, shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda or other records in obedience to the subpoena of the secretary or the secretary's duly authorized representative shall be punished by a fine of not less than \$200 or by imprisonment of not longer than 60 days, or both, and each day such violation continued shall be deemed to be a separate offense.

(i) *State-federal cooperation.* In the administration of this act, the secretary shall cooperate to the fullest extent consistent with the provisions of this act, with the federal security agency, shall make such reports, in such form and containing such information as the federal security administrator may from time to time require, and shall comply with such provisions as the federal security administrator may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the federal security agency governing the expenditures of such sums as may be allotted and

paid to this state under title III of the social security act for the purpose of assisting in the administration of this act. Upon request therefor the secretary shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

(j) *Reciprocal arrangements.* The secretary shall participate in making reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby:

(1) Services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states: (A) In which any part of such individual's service is performed; (B) in which such individual maintains residence; or (C) in which the employing unit maintains a place of business, provided there is in effect as to such services, an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing units are deemed to be performed entirely within such state;

(2) service performed by not more than three individuals, on any portion of a day but not necessarily simultaneously, for a single employing unit which customarily operates in more than one state shall be deemed to be service performed entirely within the state in which such employing unit maintains the headquarters of its business; provided that there is in effect, as to such service, an approved election by an employing unit with the affirmative consent of each such individual, pursuant to which service performed by such individual for such employing unit is deemed to be performed entirely within such state;

(3) potential rights to benefits accumulated under the employment compensation laws of one or more states or under one or more such laws of the federal government, or both, may constitute the basis for the payments of benefits through a single appropriate agency under terms which the secretary finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund;

(4) wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining such individual's rights to benefits under this act, and wages for insured work, on the basis of which an individual may become entitled to benefits under this act, shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the ben-

efits paid under this act upon the basis of such wages or services, and provisions for reimbursements from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the secretary finds will be fair and reasonable as to all affected interests; and

(5) (A) contributions due under this act with respect to wages for insured work shall be deemed for the purposes of K.S.A. 44-717, and amendments thereto, to have been paid to the fund as of the date payment was made as contributions therefor under another state or federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursements to the fund of such contributions and the actual earnings thereon as the secretary finds will be fair and reasonable as to all affected interests;

(B) reimbursements paid from the fund pursuant to subsection (j)(4) of this section shall be deemed to be benefits for the purpose of K.S.A. 44-704 and 44-712, and amendments thereto; the secretary is authorized to make to other state or federal agencies, and to receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements entered into pursuant to the provisions of this section or any other section of the employment security law;

(C) the administration of this act and of other state and federal unemployment compensation and public employment service laws will be promoted by cooperation between this state and such other states and the appropriate federal agencies in exchanging services and in making available facilities and information; the secretary is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this act as the secretary deems necessary or appropriate to facilitate the administration of any such unemployment compensation or public employment service law and, in like manner, to accept and utilize information, service and facilities made available to this state by the agency charged with the administration of any such other unemployment compensation or public employment service law; and

(D) to the extent permissible under the laws and constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this act and facilities and services provided under the unemployment compensation law of any foreign government may be utilized for the taking of claims and the payment of benefits under the employment security law of this state or under a similar law of such government.

(k) *Records available.* The secretary may furnish the railroad retirement board, at the expense of such board, such copies of the records as the railroad retirement board deems necessary for its purposes.

(l) *Destruction of records, reproduction and disposition.* The secre-

tary may provide for the destruction, reproduction, temporary or permanent retention, and disposition of records, reports and claims in the secretary's possession pursuant to the administration of the employment security law provided that prior to any destruction of such records, reports or claims the secretary shall comply with K.S.A. 75-3501 to 75-3514, inclusive, and amendments thereto.

(m) *Federal cooperation.* The secretary may afford reasonable cooperation with every agency of the United States charged with administration of any unemployment insurance law.

(n) The secretary is hereby authorized to fix, charge and collect fees for copies made of public documents, as defined by subsection (c) of K.S.A. 45-217, and amendments thereto, by xerographic, thermographic or other photocopying or reproduction process, in order to recover all or part of the actual costs incurred, including any costs incurred in certifying such copies. All moneys received from fees charged for copies of such documents shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the employment security administration fund. No such fees shall be charged or collected for copies of documents that are made pursuant to a statute which requires such copies to be furnished without expense.

Sec. 3. K.S.A. 2013 Supp. 44-706 and 44-714 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 31, 2014.

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## CHAPTER 10

### HOUSE BILL No. 2591

AN ACT concerning the department of administration; relating to filing of certain audit reports; amending K.S.A. 75-1124 and repealing the existing section.

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

Section 1. K.S.A. 75-1124 is hereby amended to read as follows: 75-1124. (a) A copy of each audit report with recommendations, if any, rendered by any licensed municipal public accountant or certified public accountant upon the completion of any audits provided for by K.S.A. 10-1208, 12-866, 13-1243, ~~13-1441~~ or 75-1122, and ~~any amendments to such statutes thereto~~, shall be filed with the ~~director of accounts and reports within one year after the end of the audit period of the audit unless an extension of time is granted by the director of accounts and~~

~~reports. Final payment to any accountant performing a municipal audit shall not be made until a copy of such report has been so filed as shown by a statement of the director of accounts and reports secretary. The municipality's circular A-133 audit report, if required under the provisions of the federal single audit act amendments of 1996, 31 U.S.C. §§ 7501-7507, along with any other audit related documents deemed necessary by the secretary, shall also be filed with the secretary.~~

(b) *On and after January 1, 2015, the audits and related documents required under subsection (a) shall be filed electronically with the secretary in a manner directed by the secretary.*

(c) *The audits required under subsection (a) are due within one year after the end of the audit period of the audit unless an extension of time is granted by the secretary. If federal law, state law or municipal contract provisions requires the audit reports and related documents to be filed in a period of less than one year, the municipality audit reports and related documents shall be filed in accordance with such laws or contract provisions.*

(d) *Final payment to any accountant performing any audit required under subsection (a) shall not be made until a copy of the audit reports and related documents have been so filed with the secretary, and is evidenced by a document from the secretary acknowledging receipt of the audit reports and related documents.*

(e) *Notwithstanding any provision of law to the contrary, upon the filing of the audit reports and related documents as required under subsection (a), the municipality is not required to submit any audit reports or related documents to any other state agency, office or official.*

(f) *For the purposes of this section, "secretary" means the secretary of administration or the secretary's designee.*

Sec. 2. K.S.A. 75-1124 is hereby repealed.

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

Approved March 31, 2014.

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CHAPTER 11  
HOUSE BILL No. 2597

AN ACT concerning solid waste; relating to municipal collection of recyclables; amending K.S.A. 2013 Supp. 12-2036 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 12-2036 is hereby amended to read as follows: 12-2036. (a) A municipality may establish an organized collection

service as a municipal service by ordinance, in the case of a city, or by resolution, in the case of other municipalities. The ordinance or resolution shall incorporate any franchise, license, or negotiated contract or contract let by bid using one or more collectors or an organization of collectors.

(b) At least 180 days before adopting such an ordinance or resolution, the governing body of the municipality shall announce its intent to consider adoption of an organized collection service, stating specific goals to be achieved, detailed justification for any franchise fees and all other reasons for considering such a service by passage of a resolution of intent. The resolution of intent shall be published once in the official newspaper of the municipality. The resolution of intent shall give notice of a public hearing to be held at least 30 days prior to consideration of the adoption of the resolution of intent on the issue and shall invite the participation of interested persons in the planning and establishing of the organized collection service, including all licensees or other persons operating solid waste or recyclables collection services in the municipality as of the date of announcement of its intent to organize collection in the municipality.

(c) During a 90-day period following the adoption of the resolution of intent, the municipality shall develop a plan for organized collection service. During this period, the municipality shall invite and employ the assistance of all licensees or other persons operating solid waste or recyclables collection services in the municipality. All licensees or other persons operating solid waste or recyclables collection services in the municipality shall be allowed to participate in all planning meetings.

(d) The municipality shall provide 30 days notice prior to the hearing on the proposed plan to all licensees or other persons operating solid waste collection or recyclables services in the municipality.

(e) The plan shall:

(1) Describe in detail the procedures used for development of the plan for organized collection service and compliance with all required notice provisions;

(2) evaluate the proposed organized collection plan in regard to the following:

(A) Achieving the stated goals;

(B) minimizing displacement and economic impact to current solid waste collectors;

(C) ensuring participation in the decision-making process of all interested parties, including all licensees or other persons operating solid waste or recyclables collection services in the municipality as of the date of the resolution of intent to organize collection in the municipality; and

(D) maximizing efficiency in solid waste collection; and

(3) provide detailed justification for any tax, franchise or similar fee.

(f) (1) A municipality may not commence organized collection service pursuant to this act for a period of at least 18 months from the adoption of an ordinance or resolution establishing such service. During the 18-

month period the municipality shall not displace any person licensed to operate solid waste collection services in the municipality.

(2) If for any reason a municipality does not implement an organized collection service by passage of an ordinance or resolution within one year of the passage of a resolution of intent, the process shall be started over as provided in this section.

(g) *Notwithstanding the provisions of this section, a municipality already providing solid waste collection services may add recycling collection services, under the following circumstances: (1) The municipality conducts a public hearing on the proposed plan to provide recycling services; (2) the municipality provides 21 days prior notice to the hearing by publication in the official newspaper of the municipality, as designated according to K.S.A. 64-101, and amendments thereto, and the Kansas register; and (3) no existing recycling collector formally opposes the new recycling collection system within 21 days of the hearing. If all three criteria are met, the municipality may immediately begin such services. If an objection is made, the municipality shall comply with the provisions of this section, including the 18-month waiting period, or may start the service once the objection is removed, whichever occurs first.*

Sec. 2. K.S.A. 2013 Supp. 12-2036 is hereby repealed.

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

Approved March 31, 2014.

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## CHAPTER 12

### SENATE BILL No. 278

AN ACT concerning the state board of veterinary examiners; relating to the veterinary examiners fee fund; powers of the board; establishing the board within the animal health division of the Kansas department of agriculture for a two-year period; amending K.S.A. 2013 Supp. 47-820 and 47-821 and repealing the existing sections.

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

New Section 1. (a) On and after July 1, 2014, through June 30, 2016, the state board of veterinary examiners is hereby established within the division of animal health of the Kansas department of agriculture.

(b) The Kansas department of agriculture shall provide all administrative services for the board, including fiscal, information technology, human resources, records, legal, facilities and procurement services.

(c) The provisions of this section shall expire on June 30, 2016.

Sec. 2. K.S.A. 2013 Supp. 47-820 is hereby amended to read as follows: 47-820. (a) *Except as provided further*, the board shall remit all

moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the veterinary examiners fee fund. Costs relating to assessment and enforcement of civil fines shall be credited to the veterinary examiners fee fund from all moneys received that are civil fines and the balance shall be credited to the state general fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director or by a person or persons designated by the executive director.

*(b) For the fiscal years ending June 30, 2015, and June 30, 2016, the board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the veterinary examiners fee fund. Costs related to assessment and enforcement of civil fines shall be credited to the veterinary examiners fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary of agriculture.*

Sec. 3. K.S.A. 2013 Supp. 47-821 is hereby amended to read as follows: 47-821. (a) In general, but not by way of limitation, the board shall have power to:

(1) Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in this state in accordance with K.S.A. 47-824 and 47-826, and amendments thereto.

(2) Inspect and register any veterinary premises pursuant to K.S.A. 47-840, and amendments thereto, and take any disciplinary action against the holder of a registration of a premises issued pursuant to K.S.A. 47-840, and amendments thereto.

(3) Inspect and audit the records and compliance with the standards of practice of any veterinarian and take any disciplinary action against the licensed veterinarian consistent with the provisions of this act and the rules and regulations adopted thereunder.

(4) Issue, renew, deny, limit, condition, fine, reprimand, restrict, suspend or revoke licenses to practice veterinary medicine in this state or otherwise discipline licensed veterinarians consistent with the provisions of this act and the rules and regulations adopted thereunder.

(5) Conduct an investigation upon an allegation by any person that

any licensee or other veterinarian has violated any provision of the Kansas veterinary practice act or any rules and regulations adopted pursuant to such act. The board may appoint individuals and committees to assist in any investigation.

(6) Establish and publish annually a schedule of fees authorized pursuant to and in accordance with the provisions of K.S.A. 47-822, and amendments thereto.

(7) Employ full-time or part-time an executive director and such professional, clerical and special personnel as shall be necessary to carry out the provisions of this act. The board shall fix the compensation of such personnel who shall be in the unclassified service under the Kansas civil service act. Under the supervision of the board, the executive director shall perform such duties as may be required by law or authorized by the board.

(8) Purchase or rent necessary office space, equipment and supplies.

(9) Appoint from its own membership one or more members to act as representatives of the board at any meeting within or without the state where such representation is deemed desirable.

(10) Initiate the bringing of proceedings in the courts for the enforcement of this act.

(11) Adopt, amend or repeal rules and regulations for licensed veterinarians regarding the limits of activity for assistants and registered veterinary technicians who perform prescribed veterinary procedures under the direct or indirect supervision and responsibility of a licensed veterinarian.

(12) Adopt, amend or repeal such rules and regulations, not inconsistent with law, as may be necessary to carry out the purposes of this act and enforce the provisions thereof.

(13) Have a common seal.

(14) Adopt, amend or repeal rules and regulations to fix minimum standards for continuing veterinary medical education, which standards shall be a condition precedent to the renewal of a license under this act.

(15) Examine and determine the qualifications and fitness of applicants for registration and register veterinary technicians.

(16) Issue, renew, deny, limit, condition, fine, reprimand, restrict, suspend or revoke veterinary technician registrations in this state consistent with the provisions of this act and the rules and regulations adopted thereunder.

(17) Establish any committee necessary to implement any provision of this act including, but not limited to, a continuing education committee and a peer review committee. Such committees may be formed in conjunction with professional veterinary associations in the state. Members of such committees appointed by the board shall receive the same privileges and immunities and be charged with the same responsibilities of activity and confidentiality as board members.

(18) Refer complaints to a duly formed peer review committee of a duly appointed professional association.

(19) Establish, by rules and regulations, minimum standards for the practice of veterinary medicine.

(20) Contract with a person or entity to perform the inspections or reinspections as required by K.S.A. 47-840, and amendments thereto.

(21) (A) For the purpose of investigations and proceedings conducted by the board, the board may issue subpoenas compelling:

(i) The attendance and testimony of veterinarians or veterinary technicians; or

(ii) the production for examination or copying of documents or any other physical evidence if such evidence relates to veterinary competence, unprofessional conduct, the mental or physical ability of a licensee or registrant to safely practice veterinary medicine or the condition of a veterinary premises. Within five days after the service of the subpoena on any veterinarian requiring the production of any evidence in the veterinarian's possession or under the veterinarian's control, such veterinarian may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced.

(B) The district court, upon application by the board or by the veterinarian or veterinary technician subpoenaed, shall have jurisdiction to issue an order:

(i) Requiring such veterinarian or veterinary technician to appear before the board or the board's duly authorized agent to produce evidence relating to the matter under investigation; or

(ii) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

(b) The powers of the board are granted to enable the board to effectively supervise the practice of veterinary medicine and are to be construed liberally in order to accomplish such objective.

(c) *Notwithstanding any provision of this section to the contrary, on and after July 1, 2014, through June 30, 2016, the executive director of the board shall be jointly appointed by the board and the animal health commissioner of the Kansas department of agriculture. Any conflict between the board and the animal health commissioner in appointing an executive director shall be resolved by the secretary of agriculture. The executive director, in conjunction with the animal health commissioner, shall make all other hires of professional and administrative staff pursuant*

*to hiring procedures of the Kansas department of agriculture. All employees of the board immediately prior to the effective date of this section shall become employees of the Kansas department of agriculture and are hereby transferred to the Kansas department of agriculture on the effective date of this section. Employees transferred pursuant to this subsection shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such employee so transferred shall be deemed to have been continuous. The provisions of this subsection shall expire on June 30, 2016.*

*(d) Notwithstanding any provision of this act to the contrary, on and after July 1, 2014, through June 30, 2016, the board shall submit all proposed rules and regulations to the secretary of agriculture. The secretary of agriculture may recommend any changes to proposed rules and regulations for approval by the board. The secretary shall formally propose and adopt all rules and regulations of the board pursuant to the rules and regulations filing act, K.S.A. 77-415 et seq., and amendments thereto. The secretary shall not adopt any rule and regulation unless such rule and regulation has been approved by the board. The provisions of this subsection shall expire on June 30, 2016.*

Sec. 4. K.S.A. 2013 Supp. 47-820 and 47-821 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 31, 2014.

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## CHAPTER 13

### HOUSE BILL No. 2611

AN ACT concerning dentists; conduct of dental offices; amending K.S.A. 2013 Supp. 65-1435 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 65-1435 is hereby amended to read as follows: 65-1435. (a) Except as otherwise provided in this section, it shall be unlawful for any person or persons to practice or offer to practice dentistry under any name except such person's own name, which shall be the name used on the license granted to such person as a dentist as provided in the dental practices act.

(b) A licensed dentist may use the name of any association, corporation, clinic, trade name or business name in connection with the practice of dentistry, as defined in the dental practices act, except that such name may not misrepresent the dentist to the public as determined by the Kansas dental board.

(c) Nothing herein contained shall be construed to prevent two or more licensed dentists:

(1) From associating together for the practice of dentistry, each in such person's own proper name; or

(2) from associating together for the practice of dentistry, each as owners, in a professional corporation, organized pursuant to the professional corporation law of Kansas, or, each as owners, in a limited liability company organized pursuant to the Kansas revised limited liability company act, and using a name that may or may not contain the proper name of any such person or persons except that such name may not misrepresent the dentist to the public and from employing nonowning licensees; or

(3) from associating together with persons licensed to practice medicine and surgery in a clinic or professional association under a name that may or may not contain the proper name of any such person or persons and may contain the word "clinic."

(d) It shall be unlawful, and a licensee may have a license suspended or revoked, for any licensee to conduct a dental office in the name of the licensee, or to advertise the licensee's name in connection with any dental office or offices, or to associate together for the practice of dentistry with other licensed dentists in a professional corporation or limited liability company, under a name that may or may not contain the proper name of any such person or persons or to associate together with persons licensed to practice medicine and surgery in a clinic or professional association under a name that may or may not contain the proper name of any such person or persons and may contain the word "clinic," unless such licensee is personally present in the office operating as a dentist or personally overseeing such operations as are performed in the office or each of the offices ~~during a majority~~ *at least 20% of the time patients are being treated* in the office or each of the offices ~~is being operated~~.

(e) The violation of any of the provisions of this section by any dentist shall subject such dentist to suspension or revocation of a license.

(f) Notwithstanding the provisions of subsection (d), a licensee shall be permitted to own two dental offices in addition to the licensee's primary office location under the following conditions:

(1) The licensee's secondary dental office is located within a 125-mile radius of the licensee's primary office; and

(2) the licensee's secondary dental office is located in a county with a population of less than 10,000 according to the 2000 United States census.

Sec. 2. K.S.A. 2013 Supp. 65-1435 is hereby repealed.

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

Approved March 31, 2014.

## CHAPTER 14

HOUSE BILL No. 2715  
(Amended by Chapter 117)

AN ACT regulating traffic; concerning permits; relating to farm machinery and equipment; commercial drivers' license, exemptions; amending K.S.A. 2013 Supp. 8-2,127 and 8-1911 and repealing the existing sections.

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

New Section 1. (a) An implement dealer who obtains an annual permit pursuant to K.S.A. 8-1911, and amendments thereto, shall be allowed to move or transport farm tractors, implements of husbandry, combines, fertilizer dispensing equipment or other farm machinery on highways under the jurisdiction of the secretary of transportation.

(b) Such annual permit shall allow an implement dealer to move such equipment or machinery subject to the following conditions:

(1) Except as provided in subsection (e), loads being moved or transported shall not exceed a width of 17 feet, nine inches;

(2) except as provided in subsection (e), movement of loads exceeding a width of 14 feet shall use escort vehicles as required by the rules and regulations of the Kansas department of transportation;

(3) moves shall not be made within ½ hour after sunset and ½ hour before sunrise; and

(4) loads cannot be moved on any highway that is part of the national systems of interstate and defense highways.

(c) An implement dealer, or employee thereof, moving farm equipment or machinery on highways under the jurisdiction of the secretary of transportation that exceed the weight limits established by K.S.A. 8-1908 or 8-1909, and amendments thereto, or the height and length limits established by K.S.A. 8-1904, and amendments thereto, shall obtain an appropriate permit under K.S.A. 8-1911, and amendments thereto, and the rules and regulations promulgated by the Kansas department of transportation.

(d) Except as provided in subsection (e), the provisions of this section shall apply whether the implement dealer, or employees thereof, moves the equipment or machinery either:

(1) On a trailer or semi-trailer;

(2) pinning the equipment or machinery onto a truck or truck tractor with the item traveling on the item's wheels; or

(3) under the machinery or equipment's own power.

(e) An implement dealer, or employees thereof, may move farm machinery when towing such machinery behind a farm tractor within a 100 mile radius of any of the implement dealer's places of business when such farm tractor and equipment or machinery are equipped with flashing lights on both the front and rear and towed in accordance with subsections (b)(3), (b)(4) and (c).

(f) An implement dealer, or employee thereof, moving farm machin-

ery designed for use at speeds of less than 25 miles per hour, or which is normally moved at speeds less than 25 miles per hour, shall have displayed on the farm machinery a slow-moving vehicle emblem, as defined in K.S.A. 8-1717(e)(2), and amendments thereto, which shall be clearly visible from the rear of the farm machinery.

(g) As used in this section, “implement dealer” shall mean a person, firm, organization or business that buys, sells or services farm tractors, implements of husbandry, combines, fertilizer dispensing equipment or other farm machinery in the regular course of business.

Sec. 2. K.S.A. 2013 Supp. 8-1911 is hereby amended to read as follows: 8-1911. (a) The secretary of transportation with respect to highways under the secretary’s jurisdiction and local authorities with respect to highways under their jurisdiction, in their discretion, upon application, may issue a special permit, which term shall include an authorization number, to the owner or operator of an oversize or overweight vehicle. The special permit shall authorize the special permit holder to operate or move a vehicle or combination of vehicles which exceed the limitations of this act, on a route, or routes, designated in the special permit and in accordance with the terms and conditions of the special permit.

(b) The application for the permit shall describe the vehicle, or combination of vehicles and all loads or cargo for which the special permit is requested, the route or routes on which operation is sought and whether a single trip or annual operation is requested. One special permit may be issued for a vehicle or combination of vehicles, that are both oversize and overweight. A special permit under this section may be for a single trip or for annual operation. The special permit shall designate the route or routes that may be used and any other terms, conditions or restrictions deemed necessary. The secretary of transportation shall charge a fee for each permit or authorization number issued as provided for in subsection (f). No permit shall be required to authorize the moving or operating upon any highway, *by an implement dealer, as defined in section 1, and amendments thereto, or employee thereof who possesses an annual permit and following all conditions set forth in section 1, and amendments thereto*, of farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms; ~~or~~. *No permit shall be required to authorize the moving or operating upon any highway of farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms, or vehicles owned by counties, cities and other political subdivisions of the state, except that this sentence shall not: (1) Exempt trucks owned by counties, cities and other political subdivisions specifically designed and equipped and used exclusively for garbage, refuse or solid waste disposal operations from the max-*

imum gross weight limitations contained in the table in K.S.A. 8-1909, and amendments thereto; or (2) authorize travel on interstate highways.

(c) A permit shall be valid only when the registration on the power unit is equal to or exceeds the total gross weight of the vehicle. When the gross weight of the vehicle exceeds the upper limit of the available registration, the maximum amount of registration must be purchased. The provisions of this subsection shall not apply to a wrecker or tow truck, as defined in K.S.A. 66-1329, and amendments thereto, and registered in accordance with the provisions of K.S.A. 8-143, and amendments thereto.

(d) The secretary or local authority may issue or withhold the permit at the secretary's or local authority's discretion or may limit the number of trips, or establish seasonal or other time limitations within which the vehicles described may be operated on the highways, or may otherwise limit or prescribe conditions of operations of such vehicle or combination of vehicles, when necessary to assure against undue damage to the road. The secretary or local authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(e) Every permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. It shall be unlawful for any person to violate any of the terms or conditions of *the* special permit.

(f) The secretary of transportation shall charge and collect fees as follows:

- (1) Twenty dollars for each single-trip permit;
- (2) thirty dollars for each single-trip permit for a large structure, as defined by rules and regulations;
- (3) fifty dollars for each single-trip permit for a superload, as defined by rules and regulations;
- (4) twenty-five dollars for a five-year permit for vehicles authorized to move bales of hay under subsection (j) on noninterstate highways;
- (5) one hundred and fifty dollars for each annual permit; or
- (6) two thousand dollars per year for each qualified carrier company for special vehicle combination permits authorized under K.S.A. 8-1915, and amendments thereto, plus \$50 per year for each power unit operating under such annual permit.

No fees shall be charged for permits issued for vehicles owned by counties, cities and other political subdivisions of the state. All permit fees received under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund. The secretary may adopt rules and regulations for payment and collection of all fees. The secretary may adopt rules and regulations

implementing the provisions of this section to prescribe standards for any permit program to enhance highway safety.

(g) If any local authority does not desire to exercise the powers conferred on it by this section to issue or deny permits then such a permit from the local authority shall not be required to operate any such vehicle or combination of vehicles on highways under the jurisdiction of such local authority, but in no event shall the jurisdiction of the local authority be construed as extending to any portion of any state highway, any city street designated by the secretary as a connecting link in the state highway system or any highway within the national system of interstate and defense highways, which highways and streets, for the purpose of this section, shall be under the jurisdiction of the secretary.

(h) A house trailer, manufactured home or mobile home which exceeds the width as provided in subsection (a) of K.S.A. 8-1902, and amendments thereto, may be moved on the highways of this state by obtaining a permit as provided in this section, if:

(1) The width of such house trailer, manufactured home or mobile home does not exceed 16½ feet;

(2) the driver of the vehicle pulling the house trailer, manufactured home or mobile home has a valid driver's license; and

(3) the driver carries evidence that the house trailer, manufactured home or mobile home, and the vehicle pulling it, are covered by motor vehicle liability insurance with limits of not less than \$100,000 for injury to any one person, and \$300,000 for injury to persons in any one accident, and \$25,000 for injury to property.

For the purposes of this subsection, the terms "manufactured home" and "mobile home" shall have the meanings ascribed to them by K.S.A. 58-4202, and amendments thereto.

(i) Upon proper application stating the description and registration of each power unit, the secretary of transportation shall issue permits for a period, from May 1 to November 15, for custom combine operators to tow custom-combine equipment on a trailer within legal dimensions or a trailer especially designed for the transportation of combines or combine equipment at the rate of \$10 per power unit. Each application shall be accompanied by information as required by the secretary. The permit shall allow custom combine operators to haul two combine headers on designated interstate highways provided:

(1) The vehicle plus the load do not exceed 14 feet in width;

(2) the move is completed during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset; and

(3) the vehicle plus the load are not overweight.

(j) Except as provided in paragraph (2) of subsection (d) of K.S.A. 8-1902, and amendments thereto, a vehicle loaded with bales of hay which exceeds the width as provided in subsection (a) of K.S.A. 8-1902, and amendments thereto, may be moved on any highway designated as a part

of the national network of highways by obtaining a permit as provided by this section, if:

- (1) The vehicle plus the bales of hay do not exceed 12 feet in width;
- (2) the vehicle plus the bales of hay do not exceed the height authorized under K.S.A. 8-1904, and amendments thereto;
- (3) the move is completed during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset;
- (4) the vehicle plus the load are not overweight; and
- (5) the vehicle plus the load comply with the signing and marking requirements of paragraph (3) of subsection (d) of K.S.A. 8-1902, and amendments thereto.

(k) If it is determined by the secretary of transportation that a person has been granted a permit and has not complied with the applicable provisions of this section and the rules and regulations of the secretary of transportation relating thereto, the secretary may cancel the permit and may refuse to grant future permits to the individual.

Sec. 3. K.S.A. 2013 Supp. 8-2,127 is hereby amended to read as follows: 8-2,127. Vehicles that are exempt from this act include:

- (a) Farm vehicles, defined as follows:
  - (1) Registered as a farm truck or truck tractor under K.S.A. 8-143, and amendments thereto;
  - (2) used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm;
  - (3) not used in the operations of a common motor carrier; and
  - (4) used either:
    - (A) In intrastate commerce; or
    - (B) in interstate commerce within 150 air miles of any farm or farms owned or leased by the registered owner of such farm vehicle;
- (b) vehicles operated by firefighters and other persons which are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals and are not subject to normal traffic regulation. These vehicles include fire trucks, hook and ladder trucks, foam or water transport trucks, police SWAT team vehicles, ambulances or other vehicles that are used in response to emergencies;
- (c) military vehicles which are operated by military personnel in pursuit of military purposes and all noncivilian operators of equipment owned or operated by the United States department of defense. This applies to any active duty military personnel and members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians, civilians who are required to wear military uniforms and are subject to the *uniform* code of military justice or the *Kansas code of military justice*; ~~and~~

(d) motor vehicles, which would otherwise be considered commercial motor vehicles, if such vehicles are used solely and exclusively for private noncommercial use and any operator of such vehicles; *and*

(e) *farm tractors operated by an implement dealer, or employee thereof, when moved or transported in accordance with section 1, and amendments thereto.*

Sec. 4. K.S.A. 2013 Supp. 8-2,127 and 8-1911 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 31, 2014.

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## CHAPTER 15

### SENATE BILL No. 267

AN ACT concerning insurance; relating to security deposits, acceptable assets for deposit; forms, handwritten signatures required; amending K.S.A. 2013 Supp. 40-229a and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 40-229a is hereby amended to read as follows: 40-229a. (a) (1) (A) All cash, securities, ~~real estate deeds, mortgages~~ or other assets, *excluding real estate and mortgages*, deposited with the commissioner of insurance pursuant to the provisions of the insurance code of the state of Kansas shall be deposited with any Kansas financial institution acceptable to the commissioner through which a custodial or controlled account, a joint custody receipt arrangement or any combination of these or other measures that are acceptable to the commissioner is used.

(B) All such deposits shall be held by such financial institution on behalf of the commissioner in trust for the use and benefit of such company and such company's policyholders and creditors. Such assets shall be released from such deposits only upon written approval of the commissioner.

(C) All income from deposits belong to the depositing organization and shall be paid to it as it becomes available. The commissioner, upon written approval, may direct the financial institution to permit exchange of securities or assets upon deposit of specified substituted securities or assets.

(D) *An authorized signature form must be submitted to the commissioner of insurance prior to acceptance of any deposit. Each signature on the authorized signature form must be the original handwritten name of*

*each signee. No copies, facsimiles, electronic or digital signatures will be recognized on this form.*

~~(D)~~(E) All forms for deposit, withdrawal or exchange shall be prescribed, prepared and furnished by the commissioner and no facsimile signatures shall be used or recognized.

~~(E)~~(F) The commissioner or assistant commissioner of insurance or insurance department employee authorized by the commissioner may at any time inspect the securities on deposit in any such financial institution.

~~(F)~~(G) Nothing in this act shall be construed to hold the state of Kansas, the commissioner, assistant commissioner or authorized employee liable either personally or officially for any default of such financial institution.

~~(2) Real estate shall be deposited with the commissioner by the depositing organization executing a deed or assignment conveying title thereto to the commissioner, in trust for the use and benefit of such company. Such deeds or assignment shall be recorded in the office of the register of deeds of the county in which such real estate is situated. When the depositing organization is authorized to withdraw real estate from deposit, the commissioner shall execute deeds to such organization or such other persons, companies or corporations as directed by such organization. The costs of registering such deeds shall be paid by the depositing organization.~~

~~(3)~~—All deposits made with the commissioner shall be audited by the commissioner and the state treasurer not less frequently than once each three years. The commissioner may accept an audit performed by another governmental agency acceptable to the commissioner, in lieu of this audit requirement.

(b) ~~Assets, except real estate assets,~~ deposited pursuant to this section shall be held by the custodian on behalf of the commissioner as in trust for the use and benefit of the depositing organization. Such assets shall remain the specific property of the organization and shall not be subject to the claim of any third party against the custodian.

(c) The custodian is authorized to redeposit such assets with a clearing corporation as defined in K.S.A. 84-8-102, and amendments thereto, if such clearing corporation is domiciled in the United States. The custodian is authorized to hold such assets through the federal reserve bank book-entry system.

(d) The commissioner shall adopt rules and regulations to establish requirements relating to deposits under this section appropriate to assure the security and safety of such deposits, including but not limited to the following:

- (1) Capital and surplus of the custodian;
- (2) title in which deposited assets are held;
- (3) records to be kept by the custodian and the commissioner's access thereto;

- (4) periodic reports by the custodian to the commissioner;
- (5) responsibility of the custodian to indemnify the depositor for loss of deposited assets;
- (6) withdrawal or exchange of deposited assets; and
- (7) authority of the commissioner to terminate the deposit if the condition of the custodian should threaten the security of the deposited assets.

(e) As used in this section:

- (1) “Commissioner” means the commissioner of insurance; and
- (2) “financial institution” means a federal home loan bank, a savings and loan association and savings bank organized under the laws of the United States or another state, a national bank, state bank or trust company, which have main or branch offices in this state, shall at all times during which such federal home loan bank, savings and loan association, savings bank, national bank, state bank or trust company acts as a custodian be:

(A) No less than adequately capitalized as determined by the standards adopted by the regulator charged with establishing standards for, and assessing, the institution’s solvency;

(B) regulated by either state or federal banking laws, the federal home loan bank act, as amended or is a member of the federal reserve system; and

(C) legally qualified to accept custody of securities.

(3) “Main office” and “branch” shall have the meanings ascribed to such terms in K.S.A. 9-1408, and amendments thereto.

Sec. 2. K.S.A. 2013 Supp. 40-229a is hereby repealed.

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

Approved April 4, 2014.

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## CHAPTER 16

### SENATE BILL No. 268

AN ACT concerning insurance; relating to risk-based capital requirements for certain insurers; amending K.S.A. 2013 Supp. 40-2c01 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

(a) “Adjusted RBC report” means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 40-2c04, and amendments thereto.

(b) “Corrective order” means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address an RBC level event.

(c) “Domestic insurer” means any insurance company or risk retention group which is licensed and organized in this state.

(d) “Foreign insurer” means any insurance company or risk retention group not domiciled in this state which is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated or K.S.A. 40-209, and amendments thereto.

(e) “NAIC” means the national association of insurance commissioners.

(f) “Life and health insurer” means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or a licensed property and casualty insurer writing only accident and health insurance.

(g) “Property and casualty insurer” means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

(h) “Negative trend” means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the “trend test calculation” included in the RBC instructions defined in subsection (j).

(i) “RBC” means risk-based capital.

(j) “RBC instructions” means the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, ~~2012~~ 2013, or any later version promulgated by the NAIC as may be adopted by the commissioner under K.S.A. 2013 Supp. 40-2c29, and amendments thereto.

(k) “RBC level” means an insurer’s company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(1) “Company action level RBC” means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(2) “regulatory action level RBC” means the product of 1.5 and its authorized control level RBC;

(3) “authorized control level RBC” means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) “mandatory control level RBC” means the product of .70 and the authorized control level RBC.

(l) “RBC plan” means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with

or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(m) "RBC report" means the report required by K.S.A. 40-2c02, and amendments thereto.

(n) "Total adjusted capital" means the sum of:

(1) An insurer's capital and surplus or surplus only if a mutual insurer; and

(2) such other items, if any, as the RBC instructions may provide.

(o) "Commissioner" means the commissioner of insurance.

Sec. 2. K.S.A. 2013 Supp. 40-2c01 is hereby repealed.

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

Approved April 4, 2014.

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## CHAPTER 17

### SENATE BILL No. 272

AN ACT concerning wildlife, parks and recreation; relating to controlled shooting areas; amending K.S.A. 32-945 and repealing the existing section.

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

Section 1. K.S.A. 32-945 is hereby amended to read as follows: 32-945. (a) Upon receipt of a new application for a license to operate a controlled shooting area, the secretary shall inspect:

(1) The proposed licensed area described in such application;

(2) the premises and facilities where game birds are to be propagated, raised and liberated;

(3) the cover for game birds on such area; and

(4) the ability of the applicants to operate a controlled shooting area.

(b) Upon receipt of a renewal application for a license to operate a controlled shooting area, the secretary may inspect as provided in subsection (a).

(c) If the secretary finds that the area contains not less nor more than the number of acres required by K.S.A. 32-944, and amendments thereto, is contiguous and has the proper requirements and facilities for the operation of a controlled shooting area and that the issuing of the license will otherwise be in the public interest, the secretary may approve the application and issue the controlled shooting area license.

(d) A controlled shooting area license expires on June 30 of the operational year for which issued.

(e) The secretary shall limit controlled shooting areas so that the total

acreage licensed as controlled shooting areas in a county does not exceed ~~3%~~ 5% of the total acreage of such county.

Sec. 2. K.S.A. 32-945 is hereby repealed.

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

Approved April 4, 2014.

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## CHAPTER 18

### SENATE BILL No. 308

AN ACT concerning the Kansas no-call act; amending K.S.A. 50-670 and 50-670a and repealing the existing sections.

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

Section 1. K.S.A. 50-670 is hereby amended to read as follows: 50-670. (a) As used in this section and K.S.A. 50-670a, and amendments thereto:

(1) “Consumer telephone call” means a call made by a telephone solicitor to the residence *or mobile telephone number* of a consumer for the purpose of soliciting a sale of any property or services to the person called, or for the purpose of soliciting an extension of credit for property or services to the person called, or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale of property or services to the person called or an extension of credit for such purposes.

(2) “*Mobile telephone number*” means a telephone number associated with a wireless telecommunications service as defined in K.S.A. 2013 Supp. 12-5363, and amendments thereto.

~~(2)~~(3) “Unsolicited consumer telephone call” means a consumer telephone call other than a call made:

(A) In response to an express request *or with the express written agreement* of the person called;

(B) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call; or

(C) to any person with whom the telephone solicitor or the telephone solicitor’s predecessor in interest has an established business relationship, unless the consumer has objected to such consumer telephone calls and requested that the telephone solicitor cease making consumer telephone calls. *The telephone solicitor shall honor any such request for five years from the date of such request.*

~~(3)~~(4) “Telephone solicitor” means any natural person, firm, organ-

ization, partnership, association or corporation who makes or causes to be made a consumer telephone call, including, but not limited to, calls made by use of automatic dialing-announcing device.

~~(4)~~(5) “Automatic dialing-announcing device” means any user terminal equipment which:

(A) When connected to a telephone line can dial, with or without manual assistance, telephone numbers which have been stored or programmed in the device or are produced or selected by a random or sequential number generator; or

(B) when connected to a telephone line can disseminate a recorded message to the telephone number called, either with or without manual assistance.

~~(5)~~(6) “Negative response” means a statement from a consumer indicating the consumer does not wish to listen to the sales presentation or participate in the solicitation presented in the consumer telephone call.

~~(6)~~(7) “Established business relationship” means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and consumer with or without an exchange of consideration, on a basis of an application, purchase or transaction by the consumer, within the ~~preceding 36~~ 18 months *immediately preceding the date of the consumer telephone call*, regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party.

(b) Any telephone solicitor who makes an unsolicited consumer telephone call to a residential telephone number shall:

- (1) Identify themselves;
- (2) identify the business on whose behalf such person is soliciting;
- (3) identify the purpose of the call immediately upon making contact by telephone with the person who is the object of the telephone solicitation;

- (4) promptly discontinue the solicitation if the person being solicited gives a negative response at any time during the consumer telephone call;

- (5) hang up the phone, or in the case of an automatic dialing-announcing device operator, disconnect the automatic dialing-announcing device from the telephone line within 25 seconds of the termination of the call by the person being called; and

- (6) a live operator or an automated dialing-announcing device shall answer the line within five seconds of the beginning of the call. If answered by automated dialing-announcing device, the message provided shall include only the information required in subsection (b)(1) and (2), but shall not contain any unsolicited advertisement.

(c) A telephone solicitor shall not withhold the display of the telephone solicitor’s telephone number from a caller identification service when that number is being used for telemarketing purposes, ~~except that before January 1, 2005, a telephone solicitor’s telephone number shall~~

~~not be required to be displayed when the telephone solicitor's service or equipment is not capable of allowing the display of such number.~~

(d) A telephone solicitor shall not transmit any written information by facsimile machine or computer to a consumer after the consumer requests orally or in writing that such transmissions cease.

(e) A telephone solicitor shall not obtain by use of any professional delivery, courier or other pickup service receipt or possession of a consumer's payment unless the goods are delivered with the opportunity to inspect before any payment is collected.

(f) Local exchange carriers and telecommunications carriers shall not be responsible for the enforcement of the provisions of this section.

(g) Any violation of this section is an unconscionable act or practice under the Kansas consumer protection act.

(h) This section shall be part of and supplemental to the Kansas consumer protection act.

Sec. 2. K.S.A. 50-670a is hereby amended to read as follows: 50-670a. ~~(a) The attorney general shall contract with the direct marketing association for the no-call list provided for by this section to be the national no-call list maintained by the telephone preference service of such association. The contract shall establish:~~

~~(1) The maximum fees that telephone solicitors may be charged for access to the no-call list;~~

~~(2) the maximum fees that consumers may be charged to register for inclusion on the no-call list;~~

~~(3) the schedule of dates by which consumers must register in order to appear on updates of the no-call list. Such schedule of dates shall provide that time period prior to the date of the next quarterly update in which consumers must submit their information in order to be included in the next quarterly update shall not exceed 30 days;~~

~~(4) the schedule of dates by which telephone solicitors will be provided updates of the no-call list. Such schedule of dates shall provide that the no-call list shall be updated no less frequently than on a quarterly basis, on January 1, April 1, July 1 and October 1;~~

~~(5) what information shall be furnished, without charge, upon request of a consumer, registered in accordance with this section, concerning a telephone solicitor or other person who the consumer believes has engaged in an unsolicited consumer telephone call prohibited by this section; and~~

~~(6) the consent of the direct marketing association to subject itself to the jurisdiction of the courts of this state for the purpose of enforcing the provisions of this section, the designation of a resident agent, who is a resident of Kansas, by the direct marketing association, for service of process, and who registers with the secretary of state pursuant to K.S.A. 60-306, and amendments thereto; and the agreement of the direct mar-~~

keting association and its resident agent to comply with the provisions of this section.

If the direct marketing association does not agree to enter into the contract provided for by this subsection, the attorney general may contract, upon bids, with another vendor to establish and maintain the no-call list provided for by this section.

~~(b)(a)~~ Prior to making unsolicited consumer telephone calls in this state and ~~quarterly~~ *not less frequently than every 30 days* thereafter, a telephone solicitor shall consult the no-call list provided for by this act, and shall delete from such telephone solicitor's calling list all ~~state residents who have registered to be telephone numbers of consumers appearing on such list.~~ The direct marketing association, or other vendor maintaining the no-call list, shall offer to consumers at least one method of registration at no cost and such registration shall be for a period of five years. ~~The attorney general shall direct consumers desiring to register to be their telephone number on the no-call list may to contact the direct marketing association or other vendor maintaining the no-call list, or the attorney general.~~ The attorney general may compile a list of telephone numbers from consumers desiring to register for such service. The attorney general shall forward the list to the direct marketing association or such other vendor in electronic format no less than 15 days prior to the date of the next quarterly update. No registration fee shall be imposed on the attorney general for submission of such list to the direct marketing association or such other vendor. Membership in the direct marketing association shall not be a requirement for telephone solicitors to obtain the telephone preference service list and telephone solicitors shall have access to the list. A telephone solicitor prior to accessing the no-call list shall submit the appropriate fee and complete a subscription agreement that: (1) Restricts use of the no-call list exclusively for purposes authorized by this act, (2) provides the telephone solicitor's contact and mailing information, and (3) selects the method of updates required (monthly or quarterly). A consumer desiring to register shall submit to the direct marketing association, or other vendor, the consumer's name, address, city, state and zip code and the telephone numbers to be registered. The direct marketing association, or other vendor, shall make available to the attorney general, in an electronic format, the no-call list and all quarterly updates of such list at no cost ~~federal trade commission to register on the national no-call list.~~

~~(c)~~ The attorney general and the direct marketing association, or other vendor, shall ensure that consumers are given clear notice that telephone numbers are not immediately added to the no-call list upon submission of a consumer's registration and that it may be as long as 120 days before telephone solicitors receive a new no-call list which includes the consumer's telephone number, that it may be as long as 30 days from the time of publication of the current quarterly update of the no-call list

~~before the consumer's telephone number is removed from the telephone solicitor's calling lists, and that the consumer and the attorney general may not be able to enforce the provisions of this section until 150 days have passed since the consumer submitted the consumer's registration to be on the no-call list.~~

~~(d)(b)~~ Telephone solicitors shall have a period of not more than 30 days from the time of ~~publication of the current quarterly update of the no-call list to remove a consumer's registration of a consumer's telephone number on the no-call list to remove that~~ telephone number from the telephone solicitor's calling lists.

~~(e)(c)~~ No telephone solicitor may make or cause to be made any unsolicited consumer telephone calls to any consumer if the consumer's telephone number or numbers appear ~~in the current quarterly list of consumers registered~~ on the no-call list. A telephone solicitor shall not use the no-call list for any other purpose than to remove consumers' telephone numbers from calling lists.

~~(f)(d)~~ A telephone solicitor shall be liable for violations of subsections ~~(d) and (e)(b) and (c)~~ if such telephone solicitor makes or causes to be made an unsolicited telephone call to a ~~state resident consumer~~ whose telephone number appears on the ~~current quarterly~~ no-call list or uses the list for any unauthorized purpose.

~~(g)(e)~~ It shall be an affirmative defense to a violation of this section if the telephone solicitor can demonstrate, by clear and convincing evidence, that: (1) The telephone solicitor at the time of the alleged violation had: (A) Obtained a copy of the updated no-call list; (B) established and implemented, with due care, reasonable practices and procedures to effectively prevent unsolicited consumer telephone calls in violation of this section; (C) trained the telephone solicitor's personnel in the requirements of this section; and (D) maintained records demonstrating compliance with this section; and (2) the unsolicited consumer telephone call was the result of an error. Such defense shall not be exercised by a telephone solicitor more than once within the state of Kansas in any 12-month period. A telephone solicitor shall be deemed to have exercised such defense if asserted in response to any consumer complaint about a violation of this section, regardless of whether litigation has been initiated.

~~(h)(f)~~ It shall be an affirmative defense to a violation of this section if the telephone solicitor can demonstrate by clear and convincing evidence that: (1) The consumer affirmatively listed or held out to the public such consumer's residential *or mobile telephone* number as a business number; (2) the telephone solicitor had knowledge of and relied upon such consumer's actions as provided in subsection ~~(h)(1)(f)(1)~~ at the time of the telephone solicitor's alleged violation; and (3) the purpose of the call was directly related to the consumer's business.

~~(i)(g)~~ Any violation of this section is an unconscionable act or practice under the Kansas consumer protection act.

~~(j) (1) Upon request of the attorney general for the purpose of enforcing the provisions of this section, the direct marketing association, or other vendor, shall furnish the attorney general with all information requested by the attorney general concerning a telephone solicitor or any person the attorney general believes has engaged in an unsolicited consumer telephone call prohibited by this section. The direct marketing association, or other vendor, shall not charge a fee for furnishing the information to the attorney general.~~

~~(2) The direct marketing association, or other vendor, shall comply with any lawful subpoena or court order directing disclosure of the list or any other information.~~

*(h) The attorney general may request information from the federal trade commission for the purpose of enforcing the provisions of this section and may comply with requirements of the federal trade commission to receive such information.*

~~(k) The direct marketing association, or other vendor, shall promptly forward any complaints concerning alleged violations of this section to the attorney general.~~

~~(l) Except as directed by the attorney general, the direct marketing association shall be prohibited from disclosing or using, in any way, any and all addresses obtained from consumers in the course of registering such consumer's phone numbers on the no-call list.~~

~~(m)-(i) Penalties and fees recovered from prosecutions of violations of this section shall be paid to the attorney general to investigate and prosecute violations of this section.~~

~~(n)-(j) The attorney general may convene a meeting or meetings with consumer advocacy groups to collectively develop a method or methods to notify the consumer advocacy group's membership and educate and promote to Kansas consumers generally the availability of the no-call list, and of a telephone solicitor's obligations under this section.~~

~~(o)-(k) On or before the first day of each regular legislative session, the attorney general shall report to the standing committees of the house and senate which hear and act on legislation relating to telecommunications issues on the status of implementation of the provisions of this section, including, but not limited to, the number of consumers who have given notice of objection, the number of requests for the data base, state revenues received from the respective sources of revenue under this section, the number of complaints received alleging violations of this section and actions taken to enforce the provisions of this section.~~

~~(p)-(l) If the federal trade commission establishes a single national no-call list the attorney general may designate the list established. The national no-call list established and maintained by the federal trade commission shall be designated as the Kansas no-call list.~~

~~(q)-(m) The attorney general may promulgate rules and regulations to carry out the provisions of the Kansas no-call act. The attorney general~~

*is authorized to promulgate state rules and regulations adopting provisions of federal trade commission regulations implementing the national do not call law, including, but not limited to, the telemarketing sales rule, 16 C.F.R. part 310. Any violation of rules and regulations promulgated pursuant to this section shall be considered a violation of this section.*

~~(n)~~ (n) The provisions of this section shall be a part of and supplemental to the Kansas consumer protection act.

~~(o)~~ (o) The provisions of this section *and K.S.A. 50-670, and amendments thereto*, shall be known and may be cited as the Kansas no-call act.

Sec. 3. K.S.A. 50-670 and 50-670a are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 4, 2014.

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## CHAPTER 19

### SENATE BILL No. 321

AN ACT concerning insurance; relating to the return of premiums separate from the notice of denial of coverage; amending K.S.A. 2013 Supp. 40-3118 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 40-3118 is hereby amended to read as follows: 40-3118. (a) No motor vehicle shall be registered or reregistered in this state unless the owner, at the time of registration, has in effect a policy of motor vehicle liability insurance covering such motor vehicle, as provided in this act, or is a self-insurer thereof, or the motor vehicle is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such policy of motor vehicle liability insurance is provided by the school district or accredited nonpublic school. As used in this section, the term “financial security” means such policy or self-insurance. The director shall require that the owner certify and provide verification of financial security, in the manner prescribed by K.S.A. 8-173, and amendments thereto, that the owner has such financial security, and the owner of each motor vehicle registered in this state shall maintain financial security continuously throughout the period of registration. In addition, when an owner certifies that such financial security is a motor vehicle liability insurance policy meeting the requirements of this act, the director may require that the owner or owner’s insurance company produce records to prove the fact that such insurance was in effect at the

time the vehicle was registered and has been maintained continuously from that date. Such records may be produced by displaying such records on a cellular phone or any other type of portable electronic device. Any person to whom such records are displayed on such cellular phone or other type of portable electronic device shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. Failure to produce such records shall be prima facie evidence that no financial security exists with regard to the vehicle concerned. It shall be the duty of insurance companies, upon the request of the director, to notify the director within 30 calendar days of the date of the receipt of such request by the director of any insurance that was not in effect on the date of registration and maintained continuously from that date.

(b) Except as otherwise provided in K.S.A. 40-276, 40-276a and 40-277, and amendments thereto, and except for termination of insurance resulting from nonpayment of premium or upon the request for cancellation by the insured, no motor vehicle liability insurance policy, or any renewal thereof, shall be terminated by cancellation or failure to renew by the insurer until at least 30 days after mailing a notice of termination, by certified or registered mail or United States post office certificate of mailing, to the named insured at the latest address filed with the insurer by or on behalf of the insured. Time of the effective date and hour of termination stated in the notice shall become the end of the policy period. Every such notice of termination sent to the insured for any cause whatsoever shall include on the face of the notice a statement that financial security for every motor vehicle covered by the policy is required to be maintained continuously throughout the registration period, that the operation of any such motor vehicle without maintaining continuous financial security therefor is a class B misdemeanor and shall be subject to a fine of not less than \$300 and not more than \$1,000 and that the registration for any such motor vehicle for which continuous financial security is not provided is subject to suspension and the driver's license of the owner thereof is subject to suspension.

(c) The director of vehicles shall verify a sufficient number of insurance certifications each calendar year as the director deems necessary to insure compliance with the provisions of this act. The owner or owner's insurance company shall verify the accuracy of any owner's certification upon request, as provided in subsection (a).

(d) (1) In addition to any other requirements of this act, the director shall require a person to acquire insurance and for such person's insurance company to maintain on file with the division evidence of such insurance for a period of one year when a person has been convicted in this or another state of any of the violations enumerated in K.S.A. 8-285, and amendments thereto.

(2) The director shall also require any driver whose driving privileges

have been suspended pursuant to this section to maintain such evidence of insurance as required above.

(3) The company of the insured shall immediately mail notice to the director whenever any policy required by this subsection to be on file with the division is terminated by the insured or the insurer for any reason. The receipt by the director of such termination shall be prima facie evidence that no financial security exists with regard to the person concerned.

(4) No cancellation notice shall be sent to the director if the insured adds or deletes a vehicle, adds or deletes a driver, renews a policy or is issued a new policy by the same company. No cancellation notice shall be sent to the director prior to the date the policy is terminated if the company allows a grace period for payment until such grace period has expired and the policy is actually terminated.

(5) For the purposes of this act, the term “conviction” includes pleading guilty or nolo contendere, being convicted or being found guilty of any violation enumerated in this subsection without regard to whether sentence was suspended or probation granted. A forfeiture of bail, bond or collateral deposited to secure a defendant’s appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(6) The requirements of this subsection shall apply whether or not such person owns a motor vehicle.

(e) Whenever the director shall receive prima facie evidence, as prescribed by this section, that continuous financial security covering any motor vehicle registered in this state is not in effect, the director shall notify the owner by registered or certified mail or United States post office certificate of mailing that, at the end of 30 days after the notice is mailed, the registration for such motor vehicle and the driving privileges of the owner of the vehicle shall be suspended or revoked, pursuant to such rules and regulations as the secretary of revenue shall adopt, unless within 10 days after the notice is mailed: (1) Such owner shall demonstrate proof of continuous financial security covering such vehicle to the satisfaction of the director. Such proof of continuous financial security may be provided by the owner by displaying such proof on a cellular phone or other portable electronic device; or (2) such owner shall mail a written request which is postmarked within 10 days after the notice is mailed requesting a hearing with the director. Any person to whom such proof of continuous financial security is displayed on a cellular phone or other portable electronic device shall view only such evidence of continuous financial security. Such person shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic device. Upon receipt of a timely request for a hearing, the director shall afford such person an opportunity for hearing within the time and in the manner provided in K.S.A. 8-255, and amendments thereto. If, within the ten-day period or at the hearing, such owner is

unable to demonstrate proof of continuous financial security covering the motor vehicle in question, the director shall revoke the registration of such motor vehicle and suspend the driving privileges of the owner of the vehicle.

(f) Whenever the registration of a motor vehicle or the driving privileges of the owner of the vehicle are suspended or revoked for failure of the owner to maintain continuous financial security, such suspension or revocation shall remain in effect until satisfactory proof of insurance has been filed with the director as required by subsection (d) and a reinstatement fee in the amount herein prescribed is paid to the division of vehicles. Such reinstatement fee shall be in the amount of \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be in the amount of \$300. The division of vehicles shall remit such fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

(g) In no case shall any motor vehicle, the registration of which has been revoked for failure to have continuous financial security, be re-registered in the name of the owner thereof, the owner's spouse, parent or child or any member of the same household, until the owner complies with subsection (f). In the event the registration plate has expired, no new plate shall be issued until the motor vehicle owner complies with the reinstatement requirements as required by this act.

(h) Evidence that an owner of a motor vehicle, registered or required to be registered in this state, has operated or permitted such motor vehicle to be operated in this state without having in force and effect the financial security required by this act for such vehicle, together with proof of records of the division of vehicles indicating that the owner did not have such financial security, shall be prima facie evidence that the owner did at the time and place alleged, operate or permit such motor vehicle to be operated without having in full force and effect financial security required by the provisions of this act.

(i) Any owner of a motor vehicle registered or required to be registered in this state who shall make a false certification concerning financial security for the operation of such motor vehicle as required by this act, shall be guilty of a class A misdemeanor. Any person, firm or corporation giving false information to the director concerning another's financial security for the operation of a motor vehicle registered or required to be registered in this state, knowing or having reason to believe that such information is false, shall be guilty of a class A misdemeanor.

(j) The director shall administer and enforce the provisions of this act relating to the registration of motor vehicles, and the secretary of revenue

shall adopt such rules and regulations as may be necessary for its administration.

(k) Whenever any person has made application for insurance coverage and such applicant has submitted payment or partial payment with such application, the insurance company, if payment accompanied the application and if insurance coverage is denied, shall refund the unearned portion of the payment to the applicant or agent ~~with the notice of denial of coverage.~~ *Such refund may:*

- (1) *Accompany the notice of denial of coverage; or*
- (2) *be separately returned in not more than 10 days from the date of such notice.*

If payment did not accompany the application to the insurance company but was made to the agent, the agent shall refund the unearned portion of the payment to the applicant upon receipt of the company's notice of denial.

(l) For the purpose of this act, "declination of insurance coverage" means a final denial, in whole or in part, by an insurance company or agent of requested insurance coverage.

Sec. 2. K.S.A. 2013 Supp. 40-3118 is hereby repealed.

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

Approved April 4, 2014.

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## CHAPTER 20

### HOUSE BILL No. 2440

AN ACT concerning the emerging industry investment act; pertaining to the treatment of certain bioscience companies; amending K.S.A. 2013 Supp. 74-99b33 and 74-99b34 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 74-99b33 is hereby amended to read as follows: 74-99b33. As used in the emerging industry investment act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

(a) "Authority" means the Kansas bioscience authority as created by K.S.A. 2013 Supp. 74-99b04, and amendments thereto.

(b) "Base year taxation" means 95% of the 2003 state withholding taxes of bioscience employees working for bioscience companies and state universities currently located in or operating in the state. The base year taxation may be adjusted in future years to account for the addition of

new bioscience companies and the identification of existing bioscience companies inadvertently omitted from prior determinations. When a bioscience company is added, the base year taxation shall be amended by 95% of the company's 2003 state withholding taxes, if any.

(c) "Bioscience" means the use of compositions, methods and organisms in cellular and molecular research, development and manufacturing processes for such diverse areas as pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, agriculture, industrial, environmental, and homeland security applications of bioscience and future developments in the biosciences. Bioscience includes biotechnology and life sciences.

(d) "Bioscience company" or "bioscience companies" means a corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, person, group or other entity that is engaged in the business of bioscience in the state and has business operations in the state, including, without limitation, research, development, sales, services, distribution or production directed towards developing or providing bioscience products or processes for specific commercial or public purposes but shall not include entities engaged in the distribution or retail sale of pharmaceuticals or other bioscience products. The authority and the secretary of revenue shall jointly determine whether an entity qualifies as a "bioscience company" based on verifiable evidence. One of the factors that shall be considered is whether a company has been identified by the department of labor by one of the following NAICS codes: 325411, 325412, 325413, 325414, 325193, 325199, 325311, 325320, 334516, 339111, 339112, 339113, 334510, 334517, 339115, 621511, 621512, 541710, 541380, 541940 and 622110. Such company shall be presumed to be a bioscience company unless the authority and the secretary of revenue agree, based on verifiable evidence, that the company is not engaged in the business of bioscience in the state. A company identified by another NAICS code may be determined to be a bioscience company by the authority and the secretary of revenue based on verifiable evidence that the company is engaged in the business of bioscience in the state. *From and after July 1, 2014, the authority and the secretary of revenue, based upon verifiable evidence, may determine that a company which has previously been determined to be a bioscience company shall no longer be considered to be a bioscience company for the purposes of the emerging industry investment act.*

(e) "Bioscience development and investment fund" means the fund created by K.S.A. 2013 Supp. 74-99b34, and amendments thereto.

(f) "Bioscience employee" means any employee, officer or director of a bioscience company who is employed in the 2003 tax year or after December 31, 2003, and who is also a state taxpayer and any employee

of state universities who is associated with bioscience research in the 2003 tax year or after December 31, 2003, and who is also a state taxpayer.

(g) “Bioscience research” means any original investigation for the advancement of scientific or technological knowledge of bioscience and any activity that seeks to utilize, synthesize, or apply existing knowledge, information or resources to the resolution of a specific problem, question or issue of bioscience.

(h) “Biotechnology” means those fields focusing on technological developments in such areas as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing and bioinformatics and future developments associated with biotechnology.

(i) “Board” means the board of directors of the authority.

(j) “Eminent scholar” means world-class, distinguished and established investigators recognized nationally for their research, achievements and ability to garner significant federal funding on an annual basis. Eminent scholars are recognized for their scientific knowledge and entrepreneurial spirit to enhance the innovative research that leads to economic gains. Eminent scholars are either members of or likely candidates for the national academy of sciences or other prominent national academic science organizations.

(k) “Life sciences” means, without limitation, the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry and physiology and any future advances associated with the life sciences.

(l) “NAICS” means the north American industry classification system.

(m) “Rising star scholar” means up-and-coming distinguished investigators growing in their national reputations in their fields, who are active and demonstrate leadership in their associated professional societies, and who attract significant federal research grant support. Rising star scholars would be likely candidates for the national academy of science or other prominent national academic science organizations in the future.

(n) “State” means the state of Kansas.

(o) “State universities” includes state educational institutions as defined in K.S.A. 76-711, and amendments thereto, and the municipal university as defined in K.S.A. 74-3201b, and amendments thereto.

(p) “Subsequent year taxation” means 95% of all state withholding taxes payable by bioscience companies that commence operating in the state after December 31, 2003, and 95% of withholding associated with new bioscience employees added to bioscience companies and state universities and associated with growth of the existing bioscience employee withholding base after December 31, 2003.

(q) “Taxpayer” means a person, corporation, limited liability company, S corporation, partnership, registered limited liability partnership,

foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto.

(r) “This act” means the emerging industry investment act.

Sec. 2. K.S.A. 2013 Supp. 74-99b34 is hereby amended to read as follows: 74-99b34. (a) The bioscience development and investment fund is hereby created. The bioscience development and investment fund shall not be a part of the state treasury and the funds in the bioscience development and investment fund shall belong exclusively to the authority.

(b) Distributions from the bioscience development and investment fund shall be for the exclusive benefit of the authority, under the control of the board and used to fulfill the purpose, powers and duties of the authority pursuant to the provisions of K.S.A. 2013 Supp. 74-99b01 et seq., and amendments thereto.

(c) The secretary of revenue and the authority shall establish the base year taxation for all bioscience companies and state universities. The secretary of revenue, the authority and the board of regents shall establish the number of bioscience employees associated with state universities and report annually and determine the increase from the taxation base annually. The secretary of revenue and the authority may consider any verifiable evidence, including, but not limited to, the NAICS code assigned or recorded by the department of labor for companies with employees in Kansas, when determining which companies should be classified as bioscience companies.

(d) (1) Except as provided in subsection (d)(2), (d)(3), ~~(h) or (i)~~, (i) or (j), for a period of 15 years from the effective date of this act, the state treasurer shall pay annually 95% of withholding above the base, as certified by the secretary of revenue, upon Kansas wages paid by bioscience employees to the bioscience development and investment fund. Such payments shall be reconciled annually. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the bioscience development and investment fund interest earnings based on:

(A) The average daily balance of moneys in the bioscience development and investment fund for the preceding month; and

(B) the net earnings rate of the pooled money investment portfolio for the preceding month.

(2) (A) For fiscal year 2013, fiscal year 2014 and fiscal year 2015, the first \$1,000,000 that the secretary of revenue certifies to the state treasurer of the annual 95% of withholding above the base, upon Kansas wages paid by bioscience employees, shall be transferred by the director of accounts and reports from the state general fund to the following: The center of innovation for biomaterials in orthopaedic research — Wichita state university fund.

(B) There is hereby established in the state treasury the center of innovation for biomaterials in orthopaedic research — Wichita state university fund which shall be administered by Wichita state university. All moneys credited to the fund shall be used for research and development. All expenditures from the center of innovation for biomaterials in orthopaedic research — Wichita state university fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the president of Wichita state university or by the person or persons designated by the president of Wichita state university.

(3) (A) For fiscal year 2013, fiscal year 2014 and fiscal year 2015, the next \$5,000,000 that the secretary of revenue certifies to the state treasurer of the annual 95% of withholding above the base, upon Kansas wages paid by bioscience employees above the first \$1,000,000 certified pursuant to subsection (d)(2)(A), shall be transferred by the director of accounts and reports from the state general fund to the following: The national bio agro-defense facility fund at Kansas state university.

(B) There is hereby established in the state treasury the national bio agro-defense facility fund which shall be administered by Kansas state university in accordance with the strategic plan adopted by the governor's national bio agro-defense facility steering committee. All moneys credited to the fund shall be used in accordance with the governor's national bio agro-defense facility steering committee's plan with the approval of the president of Kansas state university. All expenditures from the national bio agro-defense facility fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the steering committee and the president of Kansas state university or by the person or persons designated by the president of Kansas state university.

(e) The cumulative amounts of funds paid by the state treasurer to the bioscience development and investment fund shall not exceed \$581,800,000.

(f) The division of post audit is hereby authorized to conduct a post audit in accordance with the provisions of the legislative post audit act, K.S.A. 46-1106 et seq., and amendments thereto.

(g) At the direction of the authority, the fund may be held in the custody of and invested by the state treasurer, provided that the bioscience development and investment fund shall at all times be accounted for in a separate report from all other funds of the authority and the state.

(h) During the fiscal years ending June 30, 2015, and June 30, 2016, the aggregate amount that is directed to be transferred from the state general fund to the bioscience development and investment fund pursuant to subsection (d)(1) plus interest earnings pursuant to subsection (d)(1) shall not exceed \$35,000,000 for each such fiscal year.

(i) During the fiscal year ending June 30, 2013, the aggregate amount

that is directed to be transferred from the state general fund to the bio-science development and investment fund pursuant to subsection (d)(1) plus interest earnings pursuant to subsection (d)(1) shall not exceed \$12,287,267 for such fiscal year.

(j) During the fiscal year ending June 30, 2014, the aggregate amount that is directed to be transferred from the state general fund to the bio-science development and investment fund pursuant to subsection (d)(1) plus interest earnings pursuant to subsection (d)(1) shall not exceed \$10,000,000 for such fiscal year.

Sec. 3. K.S.A. 2013 Supp. 74-99b33 and 74-99b34 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 4, 2014.

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## CHAPTER 21

### SENATE BILL No. 351

AN ACT concerning motor vehicles; relating to vehicle identification numbers; penalties; damages; amending K.S.A. 8-116 and K.S.A. 2013 Supp. 8-116a and repealing the existing sections.

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

Section 1. K.S.A. 8-116 is hereby amended to read as follows: 8-116. (a) It is unlawful to sell, barter or exchange any motor vehicle, trailer or semitrailer, the original vehicle identification number of which has been destroyed, removed, altered or defaced, except as contemplated by K.S.A. 8-116a, and amendments thereto, when no part of the motor vehicle, trailer or semitrailer has been stolen and a vehicle identification number has been assigned to the motor vehicle according to law. Violation of this subsection (a) is a severity level 10, nonperson felony.

(b) It is unlawful to knowingly own or have the custody or possession of a motor vehicle, trailer or semitrailer, the original vehicle identification number of which has been destroyed, removed, altered or defaced, except as contemplated by K.S.A. 8-116a, and amendments thereto, when no part of the motor vehicle, trailer or semitrailer has been stolen and a vehicle identification number has been assigned to the motor vehicle according to law. Violation of this subsection (b) is a class C misdemeanor.

(c) Any person who shall destroy, remove, alter or deface any vehicle identification number, except as contemplated by K.S.A. 8-116a, and amendments thereto, when no part of the motor vehicle, trailer or semitrailer has been stolen, is guilty of a severity level 10, nonperson felony.

(d) Every law enforcement officer in this state having knowledge of a motor vehicle, trailer or semitrailer, the vehicle identification number of which has been destroyed, removed, altered or defaced, shall seize and take possession of such motor vehicle, trailer or semitrailer, ~~arrest the owner or custodian thereof and cause prosecution to be brought in a court of competent jurisdiction. The provisions of K.S.A. 22-2512, and amendments thereto, shall apply to any motor vehicle, trailer or semitrailer seized under this section.~~

*(e) Every motor vehicle, trailer or semitrailer, the vehicle identification number of which has been destroyed, removed, altered or defaced, which has been seized under this section is an article of contraband and the provisions of K.S.A. 22-2512, and amendments thereto, shall apply.*

*(f) No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this section.*

Sec. 2. K.S.A. 2013 Supp. 8-116a is hereby amended to read as follows: 8-116a. (a) Except as provided in K.S.A. 8-170, and amendments thereto, when an application is made for a vehicle which has been assembled, reconstructed, reconstituted or restored from one or more vehicles, or the proper identification number of a vehicle is in doubt, the procedure in this section shall be followed. The owner of the vehicle shall request the Kansas highway patrol to check the vehicle and the highway patrol shall within a reasonable period of time perform such vehicle check. At the time of such check the owner shall supply the highway patrol with information concerning the history of the various parts of the vehicle. Such information shall be supplied by affidavit of the owner, if so requested by the highway patrol. If the highway patrol is satisfied that the vehicle contains no stolen parts, ~~and complies with K.S.A. 8-116, and amendments thereto,~~ *the highway patrol shall determine the make, model and year of the vehicle, and shall assign an existing or new identification number to the vehicle and direct the places and manner in which the identification number is to be located and affixed or implanted. A charge of \$15 per hour or part thereof, with a minimum charge of \$15, and on and after July 1, 2012, a charge of \$20 per hour or part thereof, with a minimum charge of \$20, shall be made to the owner of a vehicle requesting check under this subsection, and such charge shall be paid prior to the check under this section. When a check has been made under subsection (b), not more than 60 days prior to a check of the same vehicle identification number, requested by the owner of the vehicle to obtain a regular certificate of title in lieu of a nonhighway certificate of title or obtain a rebuilt salvage title in lieu of a salvage title, no charge shall be made for such second check.*

(b) Any person making application for any original Kansas title for a used vehicle which, at the time of making application, is titled in another

jurisdiction, as a condition precedent to obtaining any Kansas title, shall have such vehicle checked by the Kansas highway patrol for verification that the vehicle identification number shown on the foreign title is genuine and agrees with the identification number on the vehicle. Checks under this section may include inspection for possible violation of K.S.A. 2013 Supp. 21-5835, and amendments thereto, or other evidence of possible fraud. The verification shall be made upon forms prescribed by the division of vehicles which shall contain such information as the secretary of revenue shall require by rules and regulations. A charge of \$15 per hour or part thereof, with a minimum charge of \$15, and on and after July 1, 2012, a charge of \$20 per hour or part thereof, with a minimum charge of \$20, shall be made for checks under this subsection. When a vehicle is registered in another state, but is financed by a Kansas financial institution and is repossessed in another state and such vehicle will not be returned to Kansas, the check required by this subsection shall not be required to obtain a valid Kansas title or registration.

(c) As used in this act, “identification number” or “vehicle identification number” means an identifying number, serial number, engine number, transmission number or other distinguishing number or mark, placed on a vehicle, engine, transmission or other essential part by its manufacturer or by authority of the division of vehicles or the Kansas highway patrol or in accordance with the laws of another state or country.

(d) The checks made under subsection (b) may be made by:

(1) A designee of the superintendent of the Kansas highway patrol; or

(2) an employee of a new vehicle dealer, as defined in subsection (b) of K.S.A. 8-2401, and amendments thereto, for the purposes provided for in subsection (f). For checks made by a designee or new vehicle dealer, 10% of each charge shall be remitted to the Kansas highway patrol and the balance of such charges shall be retained by such designee or new vehicle dealer. If the designee is a city or county law enforcement agency, then the balance shall be ~~paid to~~ *retained by* the law enforcement agency that conducted the inspection *and shall be deposited into an account to be used for law enforcement purposes and shall not be used to supplant the law enforcement agency’s budget.* When a check is made under either subsection (a) or (b) by personnel of the Kansas highway patrol, the entire amount of the charge therefor shall be paid to the highway patrol.

(e) There is hereby created the vehicle identification number fee fund. The Kansas highway patrol shall remit all moneys received by the Kansas highway patrol from fees collected under subsection (d) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the vehicle identification number fee fund. All expenditures from the vehicle identification number fee fund shall be made in accordance with

appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the Kansas highway patrol or by a person or persons designated by the superintendent.

(f) An employee of a new vehicle dealer, who has received initial training and certification from the highway patrol, and has met continuing certification requirements, in accordance with rules and regulations adopted by the superintendent of the highway patrol, may provide the checks under subsection (b), in accordance with rules and regulations adopted by the superintendent of the highway patrol, on motor vehicles that a new vehicle dealer purchases through a manufacturer's sponsored auction or on motor vehicles repurchased or reacquired by a manufacturer, distributor or financing subsidiary of such manufacturer and which are purchased by the new vehicle dealer. At any time, after a hearing in accordance with the provisions of the Kansas administrative procedure act, the superintendent of the highway patrol may revoke, suspend, decline to renew or decline to issue certification for failure to comply with the provisions of this subsection, including any rules and regulations.

(g) *No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this section.*

Sec. 3. K.S.A. 8-116 and K.S.A. 2013 Supp. 8-116a are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 4, 2014.

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## CHAPTER 22

### HOUSE BILL No. 2595°

AN ACT naming the state fossils; the tylosaurus and the pteranodon.

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

Section 1. Tylosaurus, a giant mosasaur which inhabited the great inland sea that covered portions of Kansas during the cretaceous period of the mesozoic era and grew to lengths of more than 40 feet, is hereby designated as the official marine fossil of the state of Kansas.

Sec. 2. Pteranodon, a great, winged pterosaur with a wingspread of more than 24 feet, which flew the skies of Kansas during the cretaceous period of the mesozoic era, is hereby designated as the official flying fossil of the state of Kansas.

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

Approved April 4, 2014.

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CHAPTER 23

HOUSE BILL No. 2422

AN ACT concerning property taxation; relating to watercraft; definition, levy of tax, exemptions; amending K.S.A. 2013 Supp. 79-5501 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 79-5501 is hereby amended to read as follows: 79-5501. (a) On and after July 1, 2013, watercraft shall be appraised at fair market value determined therefor pursuant to K.S.A. 79-503a, and amendments thereto, and assessed at the percentage of value as follows: (1) 11.5% in tax year 2014; and (2) 5% in tax year 2015 and all tax years thereafter. *On and after January 1, 2014, the levy used to calculate the tax on watercraft shall be the county average tax rate.* In no case shall the assessed value of any watercraft, as determined under the provisions of this section, cause the tax upon such watercraft to be less than \$12.

(b) As used in this section, *the term “watercraft” means any vessel requiring numbering pursuant to K.S.A. 32-1110, and amendments thereto—watercraft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water which, if not for the provisions of this section, would be properly classified under subclass 5 or 6 of class 2 of section 1 of article 11 of the Kansas constitution. This section shall not be construed as taxing any watercraft which otherwise would be exempt from property taxation under the laws of the state of Kansas.* Each watercraft may include one trailer which is designed to launch, retrieve, transport and store such watercraft and any nonelectric motor or motors which are necessary to operate such watercraft on the water.

(c) *Any watercraft which is designed to be propelled through the water through human power alone shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas.*

(d) *The “county average tax rate” means the total amount of general property taxes levied within the county by the state, county and all other taxing subdivisions divided by the total assessed valuation of all taxable property within the county as of November 1 of the year prior to the year of valuation as certified by the secretary of revenue.*

Sec. 2. K.S.A. 2013 Supp. 79-5501 is hereby repealed.

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

Approved April 4, 2014.

Published in the *Kansas Register* April 10, 2014.

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## CHAPTER 24

### HOUSE BILL No. 2488

AN ACT concerning the Kansas electric transmission authority; purpose and composition of authority; creation of transmission advisory council; amending K.S.A. 2013 Supp. 74-99d01, 74-99d03, 74-99d04 and 74-99d07 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 74-99d09.

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

Section 1. K.S.A. 2013 Supp. 74-99d01 is hereby amended to read as follows: 74-99d01. (a) K.S.A. 2013 Supp. 74-99d01 through 74-99d13, and amendments thereto, may be cited as the Kansas electric transmission authority act.

(b) The purpose for which the Kansas electric transmission authority is created is to further ensure *planning and* reliable operation of the integrated electrical transmission system, diversify and expand the Kansas economy and facilitate the ~~consumption~~ *delivery and utilization* of Kansas energy through improvements in the state's electric transmission infrastructure *and related policy initiatives*.

Sec. 2. K.S.A. 2013 Supp. 74-99d03 is hereby amended to read as follows: 74-99d03. (a) There is hereby created a body politic and corporate to be known as the Kansas electric transmission authority. The authority is hereby constituted a public instrumentality and the exercise by the authority of the powers conferred by this act in the construction, operation and maintenance of electric transmission projects shall be deemed and held to be the performance of an essential governmental function.

(b) (1) The authority shall be governed by a board of directors consisting of ~~seven~~ *nine* members.

(2) ~~Three~~ *Five* members shall be appointed by the governor, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate. The terms of members first appointed to the board shall be as follows: One shall be appointed ~~for terms expiring the second March 15 following appointment, one for a term expiring the third March 15 following appointment and one for terms~~ *a term* expiring the fourth March 15 follow-

ing appointment. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed. All persons appointed by the governor and serving as members shall be qualified voters of the state of Kansas with special knowledge, as evidenced by college degrees or courses, or with at least five years' experience in managerial positions, in the field of electric transmission or ~~generation~~ *energy infrastructure* development. Not more than ~~two~~ *three* of the members appointed by the governor shall be members of the same political party. A person appointed by the governor to fill a vacancy on the board shall be appointed to serve for the unexpired term. A member appointed to the board by the governor shall be eligible for reappointment. A member of the board appointed by the governor may be removed by the governor for misfeasance, malfeasance or willful neglect of duty, but only after reasonable notice and a public hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(3) The following shall be ex officio of the board: The chairperson and ranking minority member of the senate standing committee on utilities or its successor and the chairperson and ranking minority member of the house standing committee on utilities or its successor. Members ex officio shall be entitled to vote and participate as full members of the board.

(c) Each member of the board, before entering upon the member's duties, shall take and subscribe an oath or affirmation as required by law.

(d) Members of the board attending meetings of the board, or attending a subcommittee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 3. K.S.A. 2013 Supp. 74-99d04 is hereby amended to read as follows: 74-99d04. (a) The board shall elect annually from among its members a chairperson, vice-chairperson and secretary. ~~Four~~ *Five* members of the board shall constitute a quorum and the affirmative vote of ~~four~~ *five* members shall be necessary for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(b) Notwithstanding any provision of K.S.A. 75-4317 et seq., and amendments thereto, in the case of the authority, discussion, consideration and action on any of the following may occur in executive session when in the opinion of the board disclosure of the items would be harmful to the competitive position of third parties or to the security of transmission facilities:

(1) Proprietary information gathered by or in the possession of the authority from third parties pursuant to a promise of confidentiality;

(2) information regarding the location of transmission facilities and security measures that protect such facilities; or

(3) information which is related to transmission capacity or availability and is not otherwise available to all electric energy market participants.

(c) Notwithstanding any provision of this section to the contrary, the authority may claim the benefit of any other exemption to the Kansas open meetings act listed in K.S.A. 75-4317 et seq., and amendments thereto.

Sec. 4. K.S.A. 2013 Supp. 74-99d07 is hereby amended to read as follows: 74-99d07. (a) Except as otherwise provided by this act, the authority shall have all the powers necessary to carry out the purposes and provisions of this act, including, without limitation:

(1) Having the duties, privileges, immunities, rights, liabilities and disabilities of a body corporate and a political instrumentality of the state;

(2) having perpetual existence and succession;

(3) adopting, having and using a seal and altering the same at its pleasure;

(4) suing and being sued in its own name;

(5) adopting bylaws for the regulation of its affairs and the conduct of its business;

(6) adopting such rules and regulations as the authority deems necessary for the conduct of the business of the authority;

(7) employing consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as the authority deems necessary and fixing the compensation thereof;

(8) making and executing all contracts and agreements necessary or incidental to the performance of the authority's duties and the execution of the authority's powers under this act;

(9) receiving and accepting from any federal agency grants, or any other form of assistance, for or in aid of the planning, financing, construction, development, acquisition or ownership of any property, structures, equipment, facilities and works of public improvement necessary or useful for the accomplishment of the purposes for which the authority was created and receiving and accepting aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(10) borrowing funds to carry out the purposes of the authority and mortgaging and pledging any lease or leases granted, assigned or subleased by the authority;

(11) purchasing, leasing, trading, exchanging or otherwise acquiring, maintaining, holding, improving, mortgaging, selling, leasing and disposing of personal property, whether tangible or intangible, and any interest therein; and purchasing, leasing, trading, exchanging or otherwise acquiring real property or any interest therein, and maintaining, holding,

improving, mortgaging, leasing and otherwise transferring such real property, so long as such transactions do not conflict with the mission of the authority as specified in this act;

~~(12) as provided by K.S.A. 2013 Supp. 74-99d09, and amendments thereto, incurring or assuming indebtedness and entering into contracts with the Kansas development finance authority, which is authorized to borrow money, issue bonds and provide financing for: (A) The construction, upgrading or repair of transmission facilities of the Kansas electric transmission authority or the acquisition of right-of-way for such facilities, or both, and any such bonds shall be payable from and be secured by the pledge of revenues derived from the operation of such electric transmission facilities, or (B) making loans to finance the construction, upgrading or repair of transmission facilities not owned by the Kansas electric transmission authority or the acquisition of right-of-way for such facilities, or both, upon such terms and conditions as required by the authority, including a requirement that any entity receiving a loan under this act shall maintain records and accounts relating to receipt and disbursements of loan proceeds, transportation costs and information on energy sales and deliveries and make the records available to the authority for inspection, and any such bonds shall be payable from and be secured by the pledge of revenues derived from the operation of such electric transmission facilities;~~

~~(13)~~(12) depositing any moneys of the authority in any banking institution within or without the state or in any depository authorized to receive such deposits, one or more persons to act as custodians of the moneys of the authority, to give surety bonds in such amounts in form and for such purposes as the board requires;

~~(14)~~(13) recovering its costs through tariffs of the southwest power pool regional transmission organization, or its successor, and, if all costs are not recovered through such tariffs, through assessments against all electric public utilities, electric municipal utilities and electric cooperative utilities receiving benefits of the construction or upgrade and having retail customers in this state. Each such utility's assessment shall be based on the benefits the utility receives from the construction or upgrade, as determined by the state corporation commission upon application by the authority. In determining allocation of benefits and costs to utilities, the commission may take into account funding and cost recovery mechanisms developed by regional transmission organizations and shall take into account financial payments by transmission users and approved by the federal energy regulatory commission or regional transmission organization. Each electric public utility shall recover any such assessed costs from the utility's customers in a manner approved by the commission and each electric municipal or cooperative utility shall recover such assessed costs from the utility's customers in a manner approved by the utility's governing body;

~~(15)~~(14) participating in and coordinating with the planning activities of the southwest power pool regional transmission organization, or its successor, and adjoining regional transmission organizations, or their successors;

~~(16)~~(15) participating in and coordinating with the planning activities of the southwest power pool regional reliability organization, or its successor, and adjoining regional reliability organizations, or their successors;  
~~and~~

~~(17)~~(16) establish and charge reasonable fees, rates, tariffs or other charges, unless costs are recoverable under paragraph ~~(14)~~ (13), for the use of all facilities owned, financed or administered by it and for all services rendered by it, and, if all costs are not recovered under paragraph ~~(14)~~ (13), such costs shall be recovered through assessments against any entity or entities requesting use of facilities owned, financed or administered by the authority or for all requested services provided by the authority, or both; *and*

(17) *create an electric transmission advisory council, all members of which shall be reviewed annually and serve at the pleasure of the authority.*

(b) On or before the first day of the regular legislative session each year, the authority shall submit to the governor and to the legislature a written report of the authority's activities for the preceding fiscal year. Such report shall include the report of any audit conducted pursuant to K.S.A. 2013 Supp. 74-99d10, and amendments thereto, of the preceding fiscal year.

(c) The authority shall continue until terminated by law. No such law terminating the authority shall take effect while the authority has bonds, debts or obligations outstanding unless adequate provision has been made for the payment or retirement of such bonds, debts or obligations. Upon dissolution of the authority, all property, funds and assets thereof shall be disposed of as provided by law.

Sec. 5. K.S.A. 2013 Supp. 74-99d01, 74-99d03, 74-99d04, 74-99d07 and 74-99d09 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 4, 2014.

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## CHAPTER 25

## Senate Substitute for HOUSE BILL No. 2023

AN ACT concerning workers compensation; enacting the public service benefits protection act; amending K.S.A. 2013 Supp. 44-501 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 44-501 is hereby amended to read as follows: 44-501.

(a) (1) Compensation for an injury shall be disallowed if such injury to the employee results from:

(A) The employee's deliberate intention to cause such injury;

(B) the employee's willful failure to use a guard or protection against accident or injury which is required pursuant to any statute and provided for the employee;

(C) the employee's willful failure to use a reasonable and proper guard and protection voluntarily furnished the employee by the employer;

(D) the employee's reckless violation of their employer's workplace safety rules or regulations; or

(E) the employee's voluntary participation in fighting or horseplay with a co-employee for any reason, work related or otherwise.

(2) Subparagraphs (B) and (C) of paragraph (1) of subsection (a) shall not apply when it was reasonable under the totality of the circumstances to not use such equipment, or if the employer approved the work engaged in at the time of an accident or injury to be performed without such equipment.

(b) (1) (A) The employer shall not be liable under the workers compensation act where the injury, disability or death was contributed to by the employee's use or consumption of alcohol or any drugs, chemicals or any other compounds or substances, including, but not limited to, any drugs or medications which are available to the public without a prescription from a health care provider, prescription drugs or medications, any form or type of narcotic drugs, marijuana, stimulants, depressants or hallucinogens.

(B) In the case of drugs or medications which are available to the public without a prescription from a health care provider and prescription drugs or medications, compensation shall not be denied if the employee can show that such drugs or medications were being taken or used in therapeutic doses and there have been no prior incidences of the employee's impairment on the job as the result of the use of such drugs or medications within the previous 24 months.

(C) It shall be conclusively presumed that the employee was impaired due to alcohol or drugs if it is shown that, at the time of the injury, the employee had an alcohol concentration of .04 or more, or a GCMS con-

firmatory test by quantitative analysis showing a concentration at or above the levels shown on the following chart for the drugs of abuse listed:

	Confirmatory test cutoff levels (ng/ml)
Marijuana metabolite <sup>1</sup> .....	15
Cocaine metabolite <sup>2</sup> .....	150
Opiates:	
Morphine .....	2000
Codeine .....	2000
6-Acetylmorphine <sup>4</sup> .....	10 ng/ml
Phencyclidine .....	25
Amphetamines:	
Amphetamine .....	500
Methamphetamine <sup>3</sup> .....	500

<sup>1</sup> Delta-9-tetrahydrocannabinol-9-carboxylic acid.

<sup>2</sup> Benzoylcegonine.

<sup>3</sup> Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml.

<sup>4</sup> Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

(D) If it is shown that the employee was impaired pursuant to subsection (b)(1)(C) at the time of the injury, there shall be a rebuttable presumption that the accident, injury, disability or death was contributed to by such impairment. The employee may overcome the presumption of contribution by clear and convincing evidence.

(E) An employee’s refusal to submit to a chemical test at the request of the employer shall result in the forfeiture of benefits under the workers compensation act if the employer had sufficient cause to suspect the use of alcohol or drugs by the claimant or if the employer’s policy clearly authorizes post-injury testing.

(2) The results of a chemical test shall be admissible evidence to prove impairment if the employer establishes that the testing was done under any of the following circumstances:

(A) As a result of an employer mandated drug testing policy, in place in writing prior to the date of accident or injury, requiring any worker to submit to testing for drugs or alcohol;

(B) during an autopsy or in the normal course of medical treatment for reasons related to the health and welfare of the injured worker and not at the direction of the employer;

(C) the worker, prior to the date and time of the accident or injury, gave written consent to the employer that the worker would voluntarily submit to a chemical test for drugs or alcohol following any accident or injury;

(D) the worker voluntarily agrees to submit to a chemical test for drugs or alcohol following any accident or injury; or

(E) as a result of federal or state law or a federal or state rule or regulation having the force and effect of law requiring a post-injury testing

program and such required program was properly implemented at the time of testing.

(3) Notwithstanding subsection (b)(2), the results of a chemical test performed on a sample collected by an employer shall not be admissible evidence to prove impairment unless the following conditions are met:

(A) The test sample was collected within a reasonable time following the accident or injury;

(B) the collecting and labeling of the test sample was performed by or under the supervision of a licensed health care professional;

(C) the test was performed by a laboratory approved by the United States department of health and human services or licensed by the department of health and environment, except that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies;

(D) the test was confirmed by gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample;

(E) the foundation evidence must establish, beyond a reasonable doubt, that the test results were from the sample taken from the employee; and

(F) a split sample sufficient for testing shall be retained and made available to the employee within 48 hours of a positive test.

(c) (1) *Except as provided in paragraph (2), compensation shall not be paid in case of coronary or coronary artery disease or cerebrovascular injury unless it is shown that the exertion of the work necessary to precipitate the disability was more than the employee's usual work in the course of the employee's regular employment.*

(2) *For events occurring on or after July 1, 2014, in the case of a firefighter as defined by K.S.A. 40-1709(b)(1), and amendments thereto, or a law enforcement officer as defined by K.S.A. 74-5602, and amendments thereto, coronary or coronary artery disease or cerebrovascular injury shall be compensable if:*

(A) *The injury can be identified as caused by a specific event occurring in the course and scope of employment;*

(B) *the coronary or cerebrovascular injury occurred within 24 hours of the specific event; and*

(C) *the specific event was the prevailing factor in causing the coronary or coronary artery disease or cerebrovascular injury.*

(d) Except as provided in the workers compensation act, no construction design professional who is retained to perform professional services on a construction project or any employee of a construction design professional who is assisting or representing the construction design professional in the performance of professional services on the site of the construction project, shall be liable for any injury resulting from the employer's failure to comply with safety standards on the construction

project for which compensation is recoverable under the workers compensation act, unless responsibility for safety practices is specifically assumed by contract. The immunity provided by this subsection to any construction design professional shall not apply to the negligent preparation of design plans or specifications.

(e) An award of compensation for permanent partial impairment, work disability, or permanent total disability shall be reduced by the amount of functional impairment determined to be preexisting. Any such reduction shall not apply to temporary total disability, nor shall it apply to compensation for medical treatment.

(1) Where workers compensation benefits have previously been awarded through settlement or judicial or administrative determination in Kansas, the percentage basis of the prior settlement or award shall conclusively establish the amount of functional impairment determined to be preexisting. Where workers compensation benefits have not previously been awarded through settlement or judicial or administrative determination in Kansas, the amount of preexisting functional impairment shall be established by competent evidence.

(2) In all cases, the applicable reduction shall be calculated as follows:

(A) If the preexisting impairment is the result of injury sustained while working for the employer against whom workers compensation benefits are currently being sought, any award of compensation shall be reduced by the current dollar value attributable under the workers compensation act to the percentage of functional impairment determined to be preexisting. The "current dollar value" shall be calculated by multiplying the percentage of preexisting impairment by the compensation rate in effect on the date of the accident or injury against which the reduction will be applied.

(B) In all other cases, the employer against whom benefits are currently being sought shall be entitled to a credit for the percentage of preexisting impairment.

(f) If the employee receives, whether periodically or by lump sum, retirement benefits under the federal social security act or retirement benefits from any other retirement system, program, policy or plan which is provided by the employer against which the claim is being made, any compensation benefit payments which the employee is eligible to receive under the workers compensation act for such claim shall be reduced by the weekly equivalent amount of the total amount of all such retirement benefits, less any portion of any such retirement benefit, other than retirement benefits under the federal social security act, that is attributable to payments or contributions made by the employee, but in no event shall the workers compensation benefit be less than the workers compensation benefit payable for the employee's percentage of functional impairment. Where the employee elects to take retirement benefits in a lump sum, the lump sum payment shall be amortized at the rate of 4% per year over

the employee's life expectancy to determine the weekly equivalent value of the benefits.

New Sec. 2. The 2014 amendments to K.S.A. 44-501, and amendments thereto, shall be known as the public service benefits protection act.

Sec. 3. K.S.A. 2013 Supp. 44-501 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 8, 2014.

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## CHAPTER 26

### HOUSE BILL No. 2549

AN ACT concerning hazardous waste; relating to burial on-site; amending K.S.A. 2013 Supp. 65-3458 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 65-3458 is hereby amended to read as follows: 65-3458. (a) The underground burial of hazardous waste produced by persons generating quantities of such waste greater than those specified in K.S.A. 65-3451, and amendments thereto, is prohibited except as provided by order of the secretary of health and environment issued pursuant to this act. Such prohibition shall not be construed as prohibiting (1) mound landfill, (2) aboveground storage, (3) land treatment ~~or~~, (4) underground injection of hazardous waste or (5) on-site disposal or consolidation of solid and hazardous wastes, including soils, sediments and debris, if the wastes are generated as the result of a clean-up, approved by the secretary, at the site, which may include adjacent or nearby property under separate ownership that is part of the approved clean-up. Any existing hazardous waste facility which utilizes underground burial shall cease such practice and, with the approval of the secretary, shall implement closure and postclosure plans for all units of the facility in which hazardous wastes have been disposed of underground.

(b) (1) The secretary shall decide whether or not an exception to the prohibition against underground burial of hazardous waste shall be granted for a particular hazardous waste. No decision to grant an exception shall be rendered unless it is demonstrated to the secretary that, except for underground burial, no economically reasonable or technologically feasible methodology exists for the disposal of a particular hazardous waste. The procedures for obtaining an exception to the prohibition against underground burial of hazardous waste shall include a public hearing conducted in accordance with the provisions of the Kansas adminis-

trative procedure act and such other procedures as are established and prescribed by rules and regulations adopted by the secretary. Such rules and regulations shall include requirements for the form and contents of a petition desiring an exception.

(2) Within 90 days after submission of a petition desiring an exception, and if the secretary decides to grant an exception to the prohibition against underground burial of hazardous waste, the secretary of health and environment shall issue an order so providing. Any action by the secretary pursuant to this section is subject to review in accordance with the Kansas judicial review act.

Sec. 2. K.S.A. 2013 Supp. 65-3458 is hereby repealed.

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

Approved April 8, 2014.

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## CHAPTER 27

### HOUSE BILL No. 2576

AN ACT concerning the employment security law; pertaining to rate; amending K.S.A. 2013 Supp. 44-710a and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 44-710a is hereby amended to read as follows: 44-710a. (a) *Classification of employers by the secretary.* The term “employer” as used in this section refers to contributing employers. The secretary shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts with a view of fixing such contribution rates as will reflect such experience. If, as of the date such classification of employers is made, the secretary finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the secretary finds incorrect or insufficient, the secretary shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the secretary at the time, and notify the employing unit thereof by mail addressed to its last known address. Unless such employing unit shall file the report or a corrected or sufficient report as the case may be, within 15 days after the mailing of such notice, the secretary shall compute such employing unit’s rate of contributions on the basis of such estimates, and the rate as so determined shall be subject to increase but not to reduction on the basis of subsequently ascertained information. The secretary shall

determine the contribution rate of each employer in accordance with the requirements of this section.

(1) *New employers.* (A) No employer will be eligible for a rate computation until there have been 24 consecutive calendar months immediately preceding the computation date throughout which benefits could have been charged against such employer's account.

(B) (i) (a) For the rate years 2007 through 2013, each employer who is not eligible for a rate contribution shall pay contributions equal to 4% of wages paid during each calendar year with regard to employment except such employers engaged in the construction industry shall pay a rate equal to 6%.

(b) For the rate year 2014 and each rate year thereafter, except as provided in subclause (c), each employer who is not eligible for a rate contribution shall pay contributions equal to 4% of wages paid during each calendar year with regard to employment, except such employers engaged in the construction industry shall pay a rate equal to 6%.

(c) For the rate year 2014 and each rate year thereafter, except for the construction industry, each employer who starts a new business and who is not eligible for a rate contribution shall pay contributions equal to 2.7% of wages paid during each calendar year with regard to employment.

(d) (1) *For the rate year 2015 and each rate year thereafter, an employer who was not doing business in Kansas prior to July 1, 2014, shall be eligible for either the new employer rate under subsection (a)(1)(B)(i)(c) or the rate associated with the reserve ratio such employer experienced in the state which such employer was formerly located, but in no event less than 1% if such:*

(A) *Employer has been in operation in the other state or states for at least the three years immediately preceding the date such employer becomes a liable employer in Kansas;*

(B) *employer provides the authenticated account history from information accumulated from operations of such employer in the other state or all the other states necessary to compute a current Kansas rate; and*

(C) *employer's business operations established in Kansas are of the same nature, as defined by the North American industrial classification system, as conducted by such employer in the other state or states.*

(2) *The election authorized in subsection (a)(1)(B)(i)(d) of this section must be made in writing within 30 days after notice of Kansas liability. A rate in accordance with subsection (a)(1)(B)(i)(c) will be assigned unless a timely election has been made.*

(3) *If the election is made timely, the employer's account will receive the rate elected for the remainder of that rate year. The rate assigned for the next and subsequent years will be determined by the condition of the account on the computation date.*

(ii) For rate years prior to 2007, employers who are not eligible for a rate computation shall pay contributions at an assigned rate equal to the

sum of 1% plus the greater of the average rate assigned in the preceding calendar year to all employers in such industry sector or the average rate assigned to all covered employers during the preceding calendar year, except that in no instance shall any such assigned rate be less than 2%. Employers engaged in more than one type of industrial activity shall be classified by principal activity. All rates assigned will remain in effect for a complete calendar year. If the sale or acquisition of a new establishment would require reclassification of the employer to a different industry sector, the employer would be promptly notified, and the contribution rate applicable to the new industry sector would become effective the following January 1.

(iii) For purposes of this subsection (a), employers shall be classified by industrial activity in accordance with standard procedures as set forth in rules and regulations adopted by the secretary.

(C) "Computation date" means June 30 of each calendar year with respect to rates of contribution applicable to the calendar year beginning with the following January 1. In arriving at contribution rates for each calendar year, contributions paid on or before July 31 following the computation date for employment occurring on or prior to the computation date shall be considered for each contributing employer who has been subject to this act for a sufficient period of time to have such employer's rate computed under this subsection (a).

(2) *Eligible employers.* (A) A reserve ratio shall be computed for each eligible employer by the following method: Total benefits charged to the employer's account for all past years shall be deducted from all contributions paid by such employer for all such years. The balance, positive or negative, shall be divided by the employer's average annual payroll, and the result shall constitute the employer reserve ratio.

(B) Negative account balance employers as defined in subsection (d) shall pay contributions at the rate of 5.4% for each calendar year.

(C) Eligible employers, other than negative account balance employers, who do not meet the average annual payroll requirements as stated in subsection (a)(2) of K.S.A. 44-703, and amendments thereto, will be issued the maximum rate indicated in subsection (a)(3)(C) of this section until such employer establishes a new period of 24 consecutive calendar months immediately preceding the computation date throughout which benefits could have been charged against such employer's account by resuming the payment of wages. Contribution rates effective for each calendar year thereafter shall be determined as prescribed below.

(D) As of each computation date, the total of the taxable wages paid during the 12-month period prior to the computation date by all employers eligible for rate computation, except negative account balance employers, shall be divided into 51 approximately equal parts designated in column A of schedule I as "rate groups," except, with regard to a year in which the taxable wage base changes. The taxable wages used in the

calculation for such a year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during the entire twelve-month period prior to the computation date. The lowest numbered of such rate groups shall consist of the employers with the most favorable reserve ratios, as defined in this section, whose combined taxable wages paid are less than 1.96% of all taxable wages paid by all eligible employers. Each succeeding higher numbered rate group shall consist of employers with reserve ratios that are less favorable than those of employers in the preceding lower numbered rate groups and whose taxable wages when combined with the taxable wages of employers in all lower numbered rate groups equal the appropriate percentage of total taxable wages designated in column B of schedule I. Each eligible employer, other than a negative account balance employer, shall be assigned an experience factor designated under column C of schedule I in accordance with the rate group to which the employer is assigned on the basis of the employer's reserve ratio and taxable payroll. If an employer's taxable payroll falls into more than one rate group the employer shall be assigned the experience factor of the lower numbered rate group. If one or more employers have reserve ratios identical to that of the last employer included in the next lower numbered rate group, all such employers shall be assigned the experience factor designated to such last employer, notwithstanding the position of their taxable payroll in column B of schedule I.

SCHEDULE I—Eligible Employers

Column A Rate group	Column B Cumulative taxable payroll	Column C Experience factor (Ratio to total wages)
1	Less than 1.96% .....	.025%
2	1.96% but less than 3.92 .....	<del>.40</del> .04
3	3.92 but less than 5.88 .....	<del>.50</del> .08
4	5.88 but less than 7.84 .....	.12
5	7.84 but less than 9.80 .....	.16
6	9.80 but less than 11.76 .....	.20
7	11.76 but less than 13.72 .....	.24
8	13.72 but less than 15.68 .....	.28
9	15.68 but less than 17.64 .....	.32
10	17.64 but less than 19.60 .....	.36
11	19.60 but less than 21.56 .....	.40
12	21.56 but less than 23.52 .....	.44
13	23.52 but less than 25.48 .....	.48
14	25.48 but less than 27.44 .....	.52
15	27.44 but less than 29.40 .....	.56
16	29.40 but less than 31.36 .....	.60
17	31.36 but less than 33.32 .....	.64

Column A Rate group	Column B Cumulative taxable payroll	Column C Experience factor (Ratio to total wages)
18	33.32 but less than 35.28	.68
19	35.28 but less than 37.24	.72
20	37.24 but less than 39.20	.76
21	39.20 but less than 41.16	.80
22	41.16 but less than 43.12	.84
23	43.12 but less than 45.08	.88
24	45.08 but less than 47.04	.92
25	47.04 but less than 49.00	.96
26	49.00 but less than 50.96	1.00
27	50.96 but less than 52.92	1.04
28	52.92 but less than 54.88	1.08
29	54.88 but less than 56.84	1.12
30	56.84 but less than 58.80	1.16
31	58.80 but less than 60.76	1.20
32	60.76 but less than 62.72	1.24
33	62.72 but less than 64.68	1.28
34	64.68 but less than 66.64	1.32
35	66.64 but less than 68.60	1.36
36	68.60 but less than 70.56	1.40
37	70.56 but less than 72.52	1.44
38	72.52 but less than 74.48	1.48
39	74.48 but less than 76.44	1.52
40	76.44 but less than 78.40	1.56
41	78.40 but less than 80.36	1.60
42	80.36 but less than 82.32	1.64
43	82.32 but less than 84.28	1.68
44	84.28 but less than 86.24	1.72
45	86.24 but less than 88.20	1.76
46	88.20 but less than 90.16	1.80
47	90.16 but less than 92.12	1.84
48	92.12 but less than 94.08	1.88
49	94.08 but less than 96.04	1.92
50	96.04 but less than 98.00	1.96
51	98.00 and over	2.00

(E) Negative account balance employers shall, in addition to paying the rate provided for in subsection (a)(2)(B) of this section, pay a surcharge based on the size of the employer's negative reserve ratio, the calculation which is provided for in subsection (a)(2) of this section. The amount of the surcharge shall be determined from column B2 of schedule II of this section for calendar years 2012, 2013, 2014 and from column B4 of schedule II of this section for each calendar year after 2014. Each

negative account balance employer who does not satisfy the requirements to have an average annual payroll, as defined by subsection (a)(2) of K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge of equal to the maximum negative ratio surcharge from column B2 of schedule II of this section for calendar years 2012, 2013 and 2014. From calendar year 2015 forward, each negative account balance employer who does not satisfy the requirements to have an average annual payroll, as defined by subsection (a)(2) of K.S.A. 44-703, and amendments thereto, shall be assigned a surcharge equal to the maximum negative ratio surcharge from column B4 of schedule II of this section. Funds from the surcharge paid according to this subsection (a)(2)(E), and amendments thereto, shall be used to pay principal and interest due on funds received from the federal unemployment account under title XII of the social security act, (42 U.S.C. §§ 1321 to 1324), in the following manner:

(i) For each calendar year 2012, 2013 and 2014, an additional 0.10% of the taxable wages paid by all negative account balance employers with a negative reserve ratio between 0.0% and 19.9% shall be designated an interest assessment surcharge and paid into the employment security interest assessment fund for the purpose of paying interest due and owing on funds received from the federal unemployment account under title XII of the social security act. The total surcharges assessed, including the additional 0.10% surcharge mentioned above, on such employers are listed in schedule II column B2. For the calendar year 2015, and each calendar year thereafter, the surcharge rate for negative balance employers with a negative reserve ratio between 0.0% and 19.9% shall be as listed in schedule II column B4.

(ii) For the calendar years 2012, 2013 and 2014, an additional surcharge on negative balance employers with a negative reserve ratio of 20.0% and higher shall be designated an interest assessment surcharge and deposited in the employment security interest assessment fund. The additional surcharge shall be used for the purposes of paying interest due and owing on funds received from the federal unemployment account under title XII of the social security act. The total surcharge including the additional surcharge on such employers is listed in schedule II column B3 of this section.

(iii) For any succeeding year in which interest is due and owing on funds received from the federal unemployment account under title XII of the social security act, the secretary of labor may adjust the surcharge amounts necessary to pay such interest;

(iv) the portion of such surcharge used for the payment of such interest shall not be included in the calculation of such employers reserve ratio pursuant to subsection (a)(2). The portion of such surcharge used for the payment of principal shall be included in the calculation of such employers reserve ratio pursuant to subsection (a)(2); and

(v) if the amounts collected under this subsection are in excess of the

amounts needed to pay interest due, the amounts in excess shall remain in the employment security interest assessment fund to be used to pay interest in future years. Whenever the secretary certifies all interest payments have been paid pursuant to this section, any excess funds remaining in the employment security interest assessment fund shall be transferred to the employment security trust fund for the purpose of paying any remaining principal amount due for advances described in this section. In the event that the amount transferred from the employment security interest assessment fund exceeds such remaining amount of principal due, the balance shall be used for the purposes of the employment security trust fund.

SCHEDULE II—Surcharge on Negative Accounts

Column A Negative Reserve ratio	Column B1 Surcharge as a percent of taxable wages	Column B2 Surcharge as a percent of taxable wages	Column B3 Surcharge as a percent of taxable wages	Column B4 Surcharge as a percent of taxable wages
Less than 2.0%.....	0.20%.....	0.30%.....	0.10%	
2.0% but less than 4.0.....	0.40 .....	0.50 .....		0.20
4.0 but less than 6.0.....	0.60 .....	0.70 .....		0.30
6.0 but less than 8.0.....	0.80 .....	0.90 .....		0.40
8.0 but less than 10.0.....	1.00 .....	1.10 .....		0.50
10.0 but less than 12.0.....	1.20 .....	1.30 .....		0.60
12.0 but less than 14.0.....	1.40 .....	1.50 .....		0.70
14.0 but less than 16.0.....	1.60 .....	1.70 .....		0.80
16.0 but less than 18.0.....	1.80 .....	1.90 .....		0.90
18.0 but less than 20.0.....	2.00 .....	2.10 .....		1.00
20.0 but less than 22.0.....	2.00 .....		2.20 .....	1.10
22.0 but less than 24.0.....	2.00 .....		2.40 .....	1.20
24.0 but less than 26.0.....	2.00 .....		2.60 .....	1.30
26.0 but less than 28.0.....	2.00 .....		2.80 .....	1.40
28.0 but less than 30.0.....	2.00 .....		3.00 .....	1.50
30.0 but less than 32.0.....	2.00 .....		3.20 .....	1.60
32.0 but less than 34.0.....	2.00 .....		3.40 .....	1.70
34.0 but less than 36.0.....	2.00 .....		3.60 .....	1.80
36.0 but less than 38.0.....	2.00 .....		3.80 .....	1.90
38.0 and over.....	2.00 .....		4.00 .....	2.00

(3) *Entering and expanding employer.* (A) *The secretary, as a method of providing for a reduced rate of contributions to an employer shall verify the qualifications in this statute that bear a direct relation to unemployment risk for that employer.*

(B) *If, as of the computation date, an eligible, positive balance employer’s reserve ratio is significantly affected due to an increase in the employer’s taxable payroll of at least 100% and such increase is attributable to a growth in employment, and not to a change in the taxable wage base from the previous year, the secretary shall assign a reduced rate of contributions for a period of four years.*

(i) *Such reduced rate of contributions shall be the new employer rate*

*described in subsection (a)(1)(B)(i)(c) or a rate based on the employer's demonstrated risk as reflected in the employer's reserve fund ratio history.*

*(ii) To be eligible for such reduced rate, the employer must maintain a positive account balance throughout the reduced-rate period and must have an increase in account balance for each year.*

~~(3)~~(4) *Planned yield.* (A) The average required yield shall be determined from schedule III of this section, and the planned yield on total wages in column B of schedule III shall be determined by the reserve fund ratio in column A of schedule III. The reserve fund ratio shall be determined by dividing total assets in the employment security fund provided for in subsection (a) of K.S.A. 44-712, and amendments thereto, excluding all moneys credited to the account of this state pursuant to section 903 of the federal social security act, as amended, which have been appropriated by the state legislature, whether or not withdrawn from the trust fund, and excluding contributions not yet paid on July 31 by total payrolls for contributing employers for the preceding fiscal year which ended June 30.

SCHEDULE III—Fund Control  
Ratios to Total Wages

Column A Reserve Fund Ratio	Column B Planned Yield
4.500 and over .....	0.00
4.475 but less than 4.500 .....	0.01
4.450 but less than 4.475 .....	0.02
4.425 but less than 4.450 .....	0.03
4.400 but less than 4.425 .....	0.04
4.375 but less than 4.400 .....	0.05
4.350 but less than 4.375 .....	0.06
4.325 but less than 4.350 .....	0.07
4.300 but less than 4.325 .....	0.08
4.275 but less than 4.300 .....	0.09
4.250 but less than 4.275 .....	0.10
4.225 but less than 4.250 .....	0.11
4.200 but less than 4.225 .....	0.12
4.175 but less than 4.200 .....	0.13
4.150 but less than 4.175 .....	0.14
4.125 but less than 4.150 .....	0.15
4.100 but less than 4.125 .....	0.16
4.075 but less than 4.100 .....	0.17
4.050 but less than 4.075 .....	0.18
4.025 but less than 4.050 .....	0.19
4.000 but less than 4.025 .....	0.20
3.950 but less than 4.000 .....	0.21
3.900 but less than 3.950 .....	0.22

Column A Reserve Fund Ratio	Column B Planned Yield
3.850 but less than 3.900 .....	0.23
3.800 but less than 3.850 .....	0.24
3.750 but less than 3.800 .....	0.25
3.700 but less than 3.750 .....	0.26
3.650 but less than 3.700 .....	0.27
3.600 but less than 3.650 .....	0.28
3.550 but less than 3.600 .....	0.29
3.500 but less than 3.550 .....	0.30
3.450 but less than 3.500 .....	0.31
3.400 but less than 3.450 .....	0.32
3.350 but less than 3.400 .....	0.33
3.300 but less than 3.350 .....	0.34
3.250 but less than 3.300 .....	0.35
3.200 but less than 3.250 .....	0.36
3.150 but less than 3.200 .....	0.37
3.100 but less than 3.150 .....	0.38
3.050 but less than 3.100 .....	0.39
3.000 but less than 3.050 .....	0.40
2.950 but less than 3.000 .....	0.41
2.900 but less than 2.950 .....	0.42
2.850 but less than 2.900 .....	0.43
2.800 but less than 2.850 .....	0.44
2.750 but less than 2.800 .....	0.45
2.700 but less than 2.750 .....	0.46
2.650 but less than 2.700 .....	0.47
2.600 but less than 2.650 .....	0.48
2.550 but less than 2.600 .....	0.49
2.500 but less than 2.550 .....	0.50
2.450 but less than 2.500 .....	0.51
2.400 but less than 2.450 .....	0.52
2.350 but less than 2.400 .....	0.53
2.300 but less than 2.350 .....	0.54
2.250 but less than 2.300 .....	0.55
2.200 but less than 2.250 .....	0.56
2.150 but less than 2.200 .....	0.57
2.100 but less than 2.150 .....	0.58
2.050 but less than 2.100 .....	0.59
2.000 but less than 2.050 .....	0.60
1.975 but less than 2.000 .....	0.61
1.950 but less than 1.975 .....	0.62
1.925 but less than 1.950 .....	0.63
1.900 but less than 1.925 .....	0.64

Column A Reserve Fund Ratio	Column B Planned Yield
1.875 but less than 1.900 .....	0.65
1.850 but less than 1.875 .....	0.66
1.825 but less than 1.850 .....	0.67
1.800 but less than 1.825 .....	0.68
1.775 but less than 1.800 .....	0.69
1.750 but less than 1.775 .....	0.70
1.725 but less than 1.750 .....	0.71
1.700 but less than 1.725 .....	0.72
1.675 but less than 1.700 .....	0.73
1.650 but less than 1.675 .....	0.74
1.625 but less than 1.650 .....	0.75
1.600 but less than 1.625 .....	0.76
1.575 but less than 1.600 .....	0.77
1.550 but less than 1.575 .....	0.78
1.525 but less than 1.550 .....	0.79
1.500 but less than 1.525 .....	0.80
1.475 but less than 1.500 .....	0.81
1.450 but less than 1.475 .....	0.82
1.425 but less than 1.450 .....	0.83
1.400 but less than 1.425 .....	0.84
1.375 but less than 1.400 .....	0.85
1.350 but less than 1.375 .....	0.86
1.325 but less than 1.350 .....	0.87
1.300 but less than 1.325 .....	0.88
1.275 but less than 1.300 .....	0.89
1.250 but less than 1.275 .....	0.90
1.225 but less than 1.250 .....	0.91
1.200 but less than 1.225 .....	0.92
1.175 but less than 1.200 .....	0.93
1.150 but less than 1.175 .....	0.94
1.125 but less than 1.150 .....	0.95
1.100 but less than 1.125 .....	0.96
1.075 but less than 1.100 .....	0.97
1.050 but less than 1.075 .....	0.98
1.025 but less than 1.050 .....	0.99
1.000 but less than 1.025 .....	1.00
0.900 but less than 1.000 .....	1.01
0.800 but less than 0.900 .....	1.02
0.700 but less than 0.800 .....	1.03
0.600 but less than 0.700 .....	1.04
0.500 but less than 0.600 .....	1.05
0.400 but less than 0.500 .....	1.06

Column A	Column B
Reserve Fund Ratio	Planned Yield
0.300 but less than 0.400 .....	1.07
0.200 but less than 0.300 .....	1.08
0.100 but less than 0.200 .....	1.09
Less than 0.100% .....	1.10

(B) *Adjustment to taxable wages.* The planned yield as a percent of total wages, as determined in this subsection (a)(3), shall be adjusted to taxable wages by multiplying by the ratio of total wages to taxable wages for all contributing employers for the preceding fiscal year ending June 30, except, with regard to a year in which the taxable wage base changes. The taxable wages used in the calculation for such a year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during all of the preceding fiscal year ending June 30.

(C) *Effective rates.* (i) Except with regard to rates for negative account balance employers, employer contribution rates to be effective for the ensuing calendar year shall be computed by adjusting proportionately the experience factors from schedule I of this section to the required yield on taxable wages. For the purposes of this subsection (a)(3), all rates computed shall be rounded to the nearest .01% and for calendar year 1983 and ensuing calendar years, the maximum effective contribution rate shall not exceed 5.4%.

(ii) For rate year 2007 and subsequent rate years, employers who are current in filing quarterly wage reports and in payment of all contributions due and owing, shall be issued a contribution rate based upon the following reduction: For rate groups 1 through 5, the rates would be reduced to 0.00%; for rate groups 6 through 28, the rates would be reduced by 50%; for rate groups 29 through 51, the rates would be reduced by 40%.

(iii) In order to be eligible for the reduced rates for rate year 2007, the employer must file all late reports and pay all contributions due and owing within a 30-day period following the date of mailing of the amended rate notice.

(iv) In order to be eligible for the reduced rates for rate years 2008 through 2013, employers must file all reports due and pay all contributions due and owing on or before January 31 of the applicable year, except that the reduced rates for otherwise eligible employers shall not be effective for any rate year if the average high cost multiple of the employment security trust fund balance falls below 1.2 as of the computation date of that year's rates. In order to be eligible for the reduced rates for rate year 2014 and subsequent rate years, employers must file all reports due and pay all contributions due and owing on or before January 31 of the applicable year, except that the reduced rates for otherwise eligible employers shall not be effective for any rate year if the average high cost

multiple of the employment security trust fund balance falls below 1.0 as of the computation date of that year's rates. For the purposes of this provision, the average high cost multiple is the reserve fund ratio, as defined by subsection (a)(3)(A), divided by the average high benefit cost rate. The average high benefit cost rate shall be determined by averaging the three highest benefit cost rates over the last 20 years from the preceding fiscal year which ended June 30. The high benefit cost rate is defined by dividing total benefits paid in the fiscal year by total payrolls for covered employers in the fiscal year.

(v) *For rate year 2014 and rate years thereafter, an eligible employer other than a negative account balance employer, who has filed all reports due and paid all contributions due and owing on or before January 31 of the applicable year is entitled to a rate discount of 15% except as provided in this subsection.* For rate year 2015 and rate years thereafter, an eligible employer other than a negative account balance employer, who has filed all reports due and paid all contributions due and owing on or before January 31 of the applicable year is entitled to a rate discount of 25% except as provided in this subsection. This discount shall not be in effect if other reduced rates pursuant to subsections (a)(3)(C)(i) through (iv) are in effect. This discount shall not be available for a rate year if the average high cost multiple of the employment security trust fund balance falls below 1.0 as of the computation date of that year's rates, and this discount shall thereafter cease to be in effect for all subsequent rate years. For the purposes of this provision, the average high cost multiple is as defined by subsection (a)(3)(C)(iv).

(b) *Successor classification.* (1) (A) For the purposes of this subsection (b), whenever an employing unit, whether or not it is an "employing unit" within the meaning of subsection (g) of K.S.A. 44-703, and amendments thereto, becomes an employer pursuant to subsection (h)(4) of K.S.A. 44-703, and amendments thereto, or is an employer at the time of acquisition and meets the definition of a "successor employer" as defined by subsection (dd) of K.S.A. 44-703, and amendments thereto, and thereafter transfers its trade or business, or any portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management or control of the two employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. These experience factors consist of all contributions paid, benefit experience and annual payrolls of the predecessor employer. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and such trade or business is performed by the employer to whom the workforce is transferred.

(B) If, following a transfer of experience under subparagraph (A), the

secretary determines that a substantial purpose of the transfer or business was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to such account.

(2) A successor employer as defined by subsection (h)(4) or subsection (dd) of K.S.A. 44-703, and amendments thereto, may receive the experience rating factors of the predecessor employer if an application is made to the secretary or the secretary's designee in writing within 120 days of the date of the transfer.

(3) Whenever an employing unit, whether or not it is an "employing unit" within the meaning of subsection (g) of K.S.A. 44-703, and amendments thereto, acquires or in any manner succeeds to a percentage of an employer's annual payroll which is less than 100% and intends to continue the acquired percentage as a going business, the employing unit may acquire the same percentage of the predecessor's experience factors if: (A) The predecessor employer and successor employing unit make an application in writing on the form prescribed by the secretary; (B) the application is submitted within 120 days of the date of the transfer; (C) the successor employing unit is or becomes an employer subject to this act immediately after the transfer; (D) the percentage of the experience rating factors transferred shall not be thereafter used in computing the contribution rate for the predecessor employer; and (E) the secretary finds that such transfer will not tend to defeat or obstruct the object and purposes of this act.

(4) (A) The rate of both employers in a full or partial successorship under paragraph (1) of this subsection shall be recalculated and made effective on the first day of the next calendar quarter following the date of transfer of trade or business.

(B) If a successor employer is determined to be qualified under paragraph (2) or (3) of this subsection to receive the experience rating factors of the predecessor employer, the rate assigned to the successor employer for the remainder of the contributions year shall be determined by the following:

(i) If the acquiring employing unit was an employer subject to this act prior to the date of the transfer, the rate of contribution shall be the same as the contribution rate of the acquiring employer on the date of the transfer.

(ii) If the acquiring employing unit was not an employer subject to this act prior to the date of the transfer, the successor employer shall have a newly computed rate for the remainder of the contribution year which shall be based on the transferred experience rating factors as they existed on the most recent computation date immediately preceding the date of acquisition. These experience rating factors consist of all contributions paid, benefit experience and annual payrolls.

(5) Whenever an employing unit is not an employer at the time it

acquires the trade or business of an employer, the unemployment experience factors of the acquired business shall not be transferred to such employing unit if the secretary finds that such employing unit acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such employing unit shall be assigned the applicable industry rate for a “new employer” as described in subsection (a)(1) of this section. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the secretary shall use objective factors which may include the cost of acquiring the business, whether the employer continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(6) Whenever an employer’s account has been terminated as provided in subsections (d) and (e) of K.S.A. 44-711, and amendments thereto, and the employer continues with employment to liquidate the business operations, that employer shall continue to be an “employer” subject to the employment security law as provided in subsection (h)(8) of K.S.A. 44-703, and amendments thereto. The rate of contribution from the date of transfer to the end of the then current calendar year shall be the same as the contribution rate prior to the date of the transfer. At the completion of the then current calendar year, the rate of contribution shall be that of a “new employer” as described in subsection (a)(1) of this section.

(7) No rate computation will be permitted an employing unit succeeding to the experience of another employing unit pursuant to this section for any period subsequent to such succession except in accordance with rules and regulations adopted by the secretary. Any such regulations shall be consistent with federal requirements for additional credit allowance in section 3303 of the federal internal revenue code of 1986, and consistent with the provisions of this act.

(c) *Voluntary contributions.* Notwithstanding any other provision of the employment security law, any employer may make voluntary payments for the purpose of reducing or maintaining a reduced rate in addition to the contributions required under this section. Such voluntary payments may be made only during the thirty-day period immediately following the date of mailing of experience rating notices for a calendar year. All such voluntary contribution payments shall be paid prior to the expiration of 120 days after the beginning of the year for which such rates are effective. The amount of voluntary contributions shall be credited to the employer’s account as of the next preceding computation date and the employer’s rate shall be computed accordingly, ~~except that no employer’s rate shall be reduced more than five rate groups as provided in schedule I of this section as the result of a voluntary payment. An em-~~

~~ployer not having a negative account balance may have such employer's rate reduced not more than five rate groups as provided in schedule I of this section as a result of a voluntary payment. An employer having a negative account balance may have such employer's rate reduced to that prescribed for rate group 51 of schedule I of this section by making a voluntary payment in the amount of such negative account balance or to that rate prescribed for rate groups 50 through 47 of schedule I of this section by making an additional voluntary payment that would increase such employer's reserve ratio to the lower limit required for such rate groups 50 through 47. Under no circumstances shall voluntary payments be refunded in whole or in part.~~

(d) As used in this section, "negative account balance employer" means an eligible employer whose total benefits charged to such employer's account for all past years have exceeded all contributions paid by such employer for all such years.

(e) There is hereby established in the state treasury, separate and apart from all public moneys or funds of this state, an employment security interest assessment fund, which shall be administered by the secretary as provided in this act. Moneys in the employment security fund established by K.S.A 44-712, and amendments thereto, and employment security interest assessment fund established by K.S.A. 44-710, and amendments thereto, shall not be invested in the pooled money investment portfolio established under K.S.A 75-4234, and amendments thereto. Notwithstanding the provisions of subsection (a) of K.S.A. 44-712, K.S.A. 44-716, K.S.A. 44-717 and K.S.A. 75-4234, and amendments thereto, or any like provision the secretary shall remit all moneys received from employers pursuant to the interest payment assessment established in ~~section subsection (a)(2)(E), and amendments thereto,~~ to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the employment security interest assessment fund. All moneys in this fund which are received from employers pursuant to the interest payment assessment established in ~~section subsection (a)(2)(E), and amendments thereto,~~ shall be expended solely for the purposes and in the amounts found by the secretary necessary to pay any principal and interest due and owing the United States department of labor resulting from any advancements made to the Kansas employment security fund pursuant to the provisions of title XII of the social security act (42 U.S.C. §§ 1321 to 1324) except as may be otherwise provided under ~~section subsection (a)(2)(E), and amendments thereto.~~ Notwithstanding any provision of this section, all moneys received and credited to this fund pursuant to ~~section subsection (a)(2)(E), and amendments thereto,~~ pursuant to ~~section subsection (a)(2)(E), and amendments thereto,~~ shall remain part of the employment security interest assessment

fund and shall be used only in accordance with the conditions specified in ~~section subsection (a)(2)(E), and amendments thereto.~~

(f) The secretary of labor shall annually prepare and submit a certification as to the solvency and adequacy of the amount credited to the state of Kansas' account in the federal employment security trust fund to the governor and the legislative coordinating council. The certification shall be submitted on or before December 1 of each calendar year and shall be for the 12-month period ending on June 30 of that calendar year. In arriving at the certification contributions paid on or before July 31 following the 12-month period ending date of June 30 shall be considered. Each certification shall be used to determine the need for any adjustment to schedule III in subsection (a)(3)(A) and to assist in preparing legislation to accomplish any such adjustment.

Sec. 2. K.S.A. 2013 Supp. 44-710a is hereby repealed.

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

Approved April 8, 2014.

Published in the *Kansas Register* April 10, 2014.

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## CHAPTER 28

### HOUSE BILL No. 2501

AN ACT concerning human trafficking and related crimes; relating to court records and reporting; fines; diversion; buying sexual relations; staff secure facility requirements; amending K.S.A. 2013 Supp. 12-4106, 12-4416, 21-6421, 21-6422, 22-2909, 22-4704 and 65-535 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 12-4106 is hereby amended to read as follows: 12-4106.(a) The municipal judge shall have the power to administer the oaths and enforce all orders, rules and judgments made by such municipal judge, and may fine or imprison for contempt in the same manner and to the same extent as a judge of the district court.

(b) The municipal judge shall have the power to hear and determine all cases properly brought before such municipal judge to: Grant continuances; sentence those found guilty to a fine or confinement in jail, or both; commit accused persons to jail in default of bond; determine applications for parole; release on probation; grant time in which a fine may be paid; correct a sentence; suspend imposition of a sentence; set aside a judgment; permit time for post trial motions; and discharge accused persons.

(c) The municipal judge shall maintain a docket in which every cause

commenced before such municipal judge shall be entered. Such docket shall contain the names of the accused persons and complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the court, the judgment and sentence, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in each case.

(d) The municipal judge shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the supreme court.

(e) The municipal judge shall ensure that information concerning dispositions of city ordinance violations that result in convictions comparable to convictions for offenses under Kansas criminal statutes is forwarded to the Kansas bureau of investigation central repository. This information shall be transmitted, on a form or in a format approved by the attorney general, within 30 days of final disposition.

(f) In all cases alleging a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-2,144, 8-1567 or 32-1131 or K.S.A. 2013 Supp. 8-1025, 21-6419 or 21-6421, and amendments thereto, the municipal court judge shall ensure that the municipal court reports the filing and disposition of such case to the Kansas bureau of investigation central repository, and, on and after July 1, 2014, reports the filing and disposition of such case electronically to the Kansas bureau of investigation central repository.

(g) In all cases in which a fine is imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or K.S.A. 2013 Supp. 8-1025 or 21-6421, and amendments thereto, the municipal court judge shall ensure that the municipal court remits the appropriate amount of such fine to the state treasurer as provided in K.S.A. 2013 Supp. 12-4120, and amendments thereto.

Sec. 2. K.S.A. 2013 Supp. 12-4416 is hereby amended to read as follows: 12-4416. (a) A diversion agreement shall provide that if the defendant fulfills the obligations of the program described therein, as determined by the city attorney, the city attorney shall act to have the criminal charges against the defendant dismissed with prejudice. The diversion agreement shall include specifically the waiver of all rights under the law or the constitution of Kansas or of the United States to counsel, a speedy arraignment, a speedy trial, and the right to trial by jury. The diversion agreement may include, but is not limited to, provisions concerning payment of restitution, including court costs and diversion costs, residence in a specified facility, maintenance of gainful employment, and participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guid-

ance and other rehabilitative services. The diversion agreement shall state:

- (1) The defendant's full name;
- (2) the defendant's full name at the time the complaint was filed, if different from the defendant's current name;
- (3) the defendant's sex, race and date of birth;
- (4) the crime with which the defendant is charged;
- (5) the date the complaint was filed; and
- (6) the municipal court with which the agreement is filed.

*(b) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 2013 Supp. 21-6421, and amendments thereto, the agreement:*

*(1) Shall include a requirement that the defendant pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 2013 Supp. 21-6421, and amendments thereto; and*

*(2) may include a requirement that the defendant enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.*

~~(b)~~(c) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging an alcohol related offense, the diversion agreement shall include a stipulation, agreed to by the defendant and the city attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint. In addition, the agreement shall include a requirement that the defendant:

(1) Pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, for a first offense or, in lieu of payment of the fine, perform community service specified by the agreement, consonant with K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto; and

(2) participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

~~(c)~~(d) If the person entering into a diversion agreement is a nonresident, the city attorney shall transmit a copy of the diversion agreement to the division. The division shall forward a copy of the diversion agreement to the motor vehicle administrator of the person's state of residence.

~~(d)~~(e) If the city attorney elects to offer diversion in lieu of further criminal proceedings on the complaint and the defendant agrees to all of the terms of the proposed agreement, the diversion agreement shall be

filed with the municipal court and the municipal court shall stay further proceedings on the complaint. If the defendant declines to accept diversion, the municipal court shall resume the criminal proceedings on the complaint.

~~(e)~~(f) The city attorney shall forward to the division of vehicles of the state department of revenue a copy of the diversion agreement at the time such agreement is filed with the municipal court. The copy of the agreement shall be made available upon request to any county, district or city attorney or court.

Sec. 3. K.S.A. 2013 Supp. 21-6421 is hereby amended to read as follows: 21-6421. (a) Buying sexual relations is knowingly:

(1) Entering or remaining in a place where sexual relations are being sold or offered for sale with intent to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act with a person selling sexual relations who is 18 years of age or older; or

(2) hiring a person selling sexual relations who is 18 years of age or older to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act.

(b) (1) Buying sexual relations is a:

(A) Class A person misdemeanor, except as provided in subsection (b)(1)(B); and

(B) severity level 9, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, or any prior version of this section.

(2) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined \$2,500. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 2013 Supp. 75-758, and amendments thereto.

(3) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational ~~and~~ or treatment program regarding commercial sexual exploitation.

(c) *For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:*

(1) *Convictions for a violation of this section, or any prior version of this section, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering*

*into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account; and*

*(2) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance which prohibits the acts of this section only once during the person's lifetime.*

~~(c)~~(d) (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

Sec. 4. K.S.A. 2013 Supp. 21-6422 is hereby amended to read as follows: 21-6422. (a) Commercial sexual exploitation of a child is knowingly:

(1) Giving, receiving, offering or agreeing to give, or offering or agreeing to receive anything of value to perform any of the following acts:

(A) Procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another; or

(B) procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining a patron where there is an exchange of value, for any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the patron, the offender or another;

(2) establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person younger than 18 years of age, or participating in the establishment, ownership, maintenance or management thereof;

(3) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is younger than 18 years of age; or

(4) procuring transportation for, paying for the transportation of or transporting any person younger than 18 years of age within this state with the intent of causing, assisting or promoting that person's engaging in selling sexual relations.

(b) (1) Commercial sexual exploitation of a child is a:

(A) Severity level 5, person felony, except as provided in subsections (b)(1)(B) and (b)(2); and

(B) severity level 2, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, except as provided in subsection (b)(2).

(2) Commercial sexual exploitation of a child or attempt, conspiracy or criminal solicitation to commit commercial sexual exploitation of a child is an off-grid person felony when the offender is 18 years of age or older and the victim is less than 14 years of age.

(3) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) or subsection (b)(2) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by ~~section~~ ~~3~~-K.S.A. 2013 Supp. 75-758, and amendments thereto.

(4) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational ~~and~~ or treatment program regarding commercial sexual exploitation of a child.

(c) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:

(1) Subsection (c) of K.S.A. 2013 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of commercial sexual exploitation of a child pursuant to this section;

(2) subsection (c) of K.S.A. 2013 Supp. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of commercial sexual exploitation of a child pursuant to this section; and

(3) subsection (d) of K.S.A. 2013 Supp. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of commercial sexual exploitation of a child pursuant to this section.

(d) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 5. K.S.A. 2013 Supp. 22-2909 is hereby amended to read as follows: 22-2909. (a) A diversion agreement shall provide that if the defendant fulfills the obligations of the program described therein, as determined by the attorney general or county or district attorney, such attorney shall act to have the criminal charges against the defendant dismissed with prejudice. The diversion agreement shall include specifically the waiver of all rights under the law or the constitution of Kansas or of the United States to a speedy arraignment, preliminary examinations and hearings, and a speedy trial, and in the case of diversion under subsection (c) waiver of the rights to counsel and trial by jury. The diversion

agreement may include, but is not limited to, provisions concerning payment of restitution, including court costs and diversion costs, residence in a specified facility, maintenance of gainful employment, and participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services. If a county creates a local fund under the property crime restitution and compensation act, a county or district attorney may require in all diversion agreements as a condition of diversion the payment of a diversion fee in an amount not to exceed \$100. Such fees shall be deposited into the local fund and disbursed pursuant to recommendations of the local board under the property crime restitution and victims compensation act.

(b) The diversion agreement shall state: (1) The defendant's full name; (2) the defendant's full name at the time the complaint was filed, if different from the defendant's current name; (3) the defendant's sex, race and date of birth; (4) the crime with which the defendant is charged; (5) the date the complaint was filed; and (6) the district court with which the agreement is filed.

(c) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, the diversion agreement shall include a stipulation, agreed to by the defendant, the defendant's attorney if the defendant is represented by an attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint. In addition, the agreement shall include a requirement that the defendant:

(1) Pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, for a first offense or, in lieu of payment of the fine, perform community service specified by the agreement, in accordance with K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto; and

(2) participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(d) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a domestic violence offense, as defined in K.S.A. 2013 Supp. 21-5111, and amendments thereto, the diversion agreement shall include a requirement that the defendant undergo a domestic violence offender assessment and follow all recommendations unless otherwise agreed to with the prosecutor in the diversion agree-

ment. The defendant shall be required to pay for such assessment and, unless otherwise agreed to with the prosecutor in the diversion agreement, for completion of all recommendations.

(e) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation other than K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, the diversion agreement may include a stipulation, agreed to by the defendant, the defendant's attorney if the defendant is represented by an attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint.

(f) If the person entering into a diversion agreement is a nonresident, the attorney general or county or district attorney shall transmit a copy of the diversion agreement to the division. The division shall forward a copy of the diversion agreement to the motor vehicle administrator of the person's state of residence.

(g) If the attorney general or county or district attorney elects to offer diversion in lieu of further criminal proceedings on the complaint and the defendant agrees to all of the terms of the proposed agreement, the diversion agreement shall be filed with the district court and the district court shall stay further proceedings on the complaint. If the defendant declines to accept diversion, the district court shall resume the criminal proceedings on the complaint.

(h) Except as provided in subsection (i), if a diversion agreement is entered into in lieu of further criminal proceedings alleging commission of a misdemeanor by the defendant, while under 21 years of age, under K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto, or K.S.A. 41-719, 41-727, 41-804, 41-2719 or 41-2720, and amendments thereto, the agreement shall require the defendant to participate in an alcohol and drug evaluation conducted by a licensed provider pursuant to K.S.A. 8-1008, and amendments thereto, and follow any recommendation made by the provider after such evaluation.

(i) If the defendant is 18 or more years of age but less than 21 years of age and allegedly committed a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (h) are permissive and not mandatory.

(j) *If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 2013 Supp. 21-6421, and amendments thereto, the agreement:*

*(1) Shall include a requirement that the defendant pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 2013 Supp. 21-6421, and amendments thereto; and*

(2) *may include a requirement that the defendant enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.*

~~(j)~~(k) Except diversion agreements reported under subsection ~~(k)~~(l), the attorney general or county or district attorney shall forward to the Kansas bureau of investigation a copy of the diversion agreement at the time such agreement is filed with the district court. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

~~(k)~~(l) At the time of filing the diversion agreement with the district court, the attorney general or county or district attorney shall forward to the division of vehicles of the state department of revenue a copy of any diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

Sec. 6. K.S.A. 2013 Supp. 22-4704 is hereby amended to read as follows: 22-4704. (a) In accordance with the provisions of K.S.A. 77-415 et seq., and amendments thereto, the director shall adopt appropriate rules and regulations for agencies in the executive branch of government and for criminal justice agencies other than those that are part of the judicial branch of government to implement the provisions of this act.

(b) The director shall develop procedures to permit and encourage the transfer of criminal history record information among and between courts and affected agencies in the executive branch, and especially between courts and the central repository.

(c) The rules and regulations adopted by the director shall include those: (1) Governing the collection, reporting, and dissemination of criminal history record information by criminal justice agencies;

(2) necessary to insure the security of all criminal history record information reported, collected and disseminated by and through the criminal justice information system;

(3) necessary for the coordination of all criminal justice data and information processing activities as they relate to criminal history record information;

(4) governing the dissemination of criminal history record information;

(5) governing the procedures for inspection and challenging of criminal history record information;

(6) governing the auditing of criminal justice agencies to insure that criminal history record information is accurate and complete and that it is collected, reported, and disseminated in accordance with this act;

(7) governing the development and content of agreements between

the central repository and criminal justice and noncriminal justice agencies; and

(8) governing the exercise of the rights of inspection and challenge provided in this act.

(d) The rules and regulations adopted by the director shall not include any provision that allows the charging of a fee for information requests for the purpose of participating in a block parent program, including, but not limited to, the McGruff house program.

(e) Rules and regulations adopted by the director may not be inconsistent with the provisions of this act.

~~(f)(1) On or before July 1, 2013, the director shall adopt rules and regulations requiring district courts to report the filing and disposition of all cases alleging a violation of K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, to the central repository.~~

(2) On or before July 1, 2014, the director shall adopt rules and regulations requiring district courts to electronically report all case filings and dispositions for violations of K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, 21-5426, 21-6419, 21-6420, 21-6421 or 21-6422, and amendments thereto, to the central repository.

Sec. 7. K.S.A. 2013 Supp. 65-535 is hereby amended to read as follows: 65-535. (a) A staff secure facility shall:

(1) Not include construction features designed to physically restrict the movements and activities of residents, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for the residents;

(2) implement written policies and procedures that include the use of a combination of supervision, inspection and accountability to promote safe and orderly operations;

(3) rely on locked entrances and delayed-exit mechanisms to secure the facility, and implement reasonable rules restricting entrance to and egress from the facility;

(4) implement written policies and procedures for 24-hour-a-day staff observation of all facility entrances and exits;

(5) implement written policies and procedures for the screening and searching of both residents and visitors;

(6) implement written policies and procedures for knowing the whereabouts of all residents at all times and for handling runaways and unauthorized absences; and

(7) implement written policies and procedures for determining when the movements and activities of individual residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

(b) A staff secure facility shall provide the following services to children placed in such facility:

- (1) Case management;
- (2) life skills training;
- (3) health care;
- (4) mental health counseling;
- (5) substance abuse screening and treatment; and
- (6) any other appropriate services.

(c) Service providers in a staff secure facility shall be trained to counsel and assist victims of human trafficking and sexual exploitation.

~~(d) The person responsible for 24-hour-a-day staff observation of all facility entrances and exits shall be a retired or off-duty law enforcement officer.~~

~~(1) As used in this subsection, “retired law enforcement officer” means any former member of any duly organized federal, state, county or municipal law enforcement organization who by virtue of office or public employment was vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extended to all crimes or was limited to specific crimes.~~

~~(2) As used in this subsection, “off-duty law enforcement officer” means any off-duty member of any duly organized federal, state, county or municipal law enforcement organization who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.~~

~~(e)(d)~~ If the staff secure facility is on the same premises as that of another licensed facility, the living unit of the staff secure facility shall be maintained in a separate, self-contained unit. No staff secure facility shall be in a city or county jail.

~~(f)(e)~~ The secretary of health and environment, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, 2014.

~~(g)(f)~~ This section shall be part of and supplemental to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 8. K.S.A. 2013 Supp. 12-4106, 12-4416, 21-6421, 21-6422, 22-2909, 22-4704 and 65-535 are hereby repealed.

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

Approved April 8, 2014.

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## CHAPTER 29

## HOUSE BILL No. 2533

AN ACT concerning retirement and benefits; relating to the Kansas public employees retirement system act of 2015; interest credits on annuity savings and retirement annuity accounts; payment of annuity upon retirement; amending K.S.A. 2013 Supp. 74-49,306, 74-49,308 and 74-49,313 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 74-49,306 is hereby amended to read as follows: 74-49,306. (a) A member's annuity savings account is the sum of the member's mandatory contributions plus the interest credits on those contributions, which shall be credited no less frequently than quarterly based on the account balances as of the last day of the preceding quarter. Effective January 1, 2015, the interest credits are ~~5.25%~~ 4% per annum. The legislature may from time to time prospectively change the interest credits, and expressly reserves the right to do so.

(b) ~~The board may, in the board's discretion, from time to time provide for an additional interest credit, subject to the following conditions:~~

~~(1) The additional interest credit may not exceed 4% per annum;~~

~~(2) if the funding ratio of the system as a whole is equal to or more than 80% as certified by the board, the board shall provide for an additional interest credit which may not exceed the lesser of 4% or a percentage of the rate of return on the system's assets that is above 8% for a fiscal year which such percentage is equal to the funding ratio of the system as a whole for each fiscal year;~~

~~(3) the additional interest credit for a fiscal year shall not be granted unless the rate of return on the system's assets is at least 10% for that fiscal year; and~~

~~(4) if the funding ratio of the system as a whole is less than 80% as certified by the board, the board shall consider the funding of the system; market conditions; investment returns and other related factors specified by the board. The board shall provide for an annual additional interest credit. The additional interest credit shall be posted to the member's annuity savings account on March 31 or as soon thereafter as practicable, based on the member's account value as of December 31 of the preceding year. The additional interest credit shall be determined as follows:~~

~~(1) For the additional interest credit based on the member's annuity savings account balance as of December 31, 2015, the dividend shall be equal to 75% of the average net rate of return as determined by the board for calendar year 2015 on the market value of the system's assets that is above 6%, except that such additional interest credit shall not exceed 1.5%;~~

~~(2) for the additional interest credit based on the member's annuity savings account balance as of December 31, 2016, the dividend shall be equal to 75% of the average net rate of return as determined by the board~~

for calendar years 2015 and 2016 on the market value of the system's assets that is above 6%, except that such additional interest credit shall not exceed 1.5%;

(3) for the additional interest credit based on the member's annuity savings account balance as of December 31, 2017, the dividend shall be equal to 75% of the average net rate of return as determined by the board for calendar years 2015, 2016 and 2017 on the market value of the system's assets that is above 6%, except that such additional interest credit shall not exceed 1.5%;

(4) for the additional interest credit based on the member's annuity savings account balance as of December 31, 2018, the dividend shall be equal to 75% of the average net rate of return as determined by the board for calendar years 2015, 2016, 2017 and 2018 on the market value of the system's assets that is above 6%, except that such additional interest credit shall not exceed 1.5%; and

(5) for the additional interest credit based on the member's annuity savings account balance as of December 31, 2019, and all calendar years thereafter, the dividend shall be equal to 75% of the five-year average net compound rate of return as determined by the board for that calendar year and the previous four calendar years on the market value of the system's assets that is above 6%.

(c) The member's annuity savings account is vested from the date that the employee becomes a member of the plan.

(d) Interest credits under subsections (a) and (b) shall not be granted on the member's annuity savings account following the end of the second plan year following the member's termination of employment under the plan without vesting in the retirement annuity account as provided in K.S.A. 2013 Supp. 74-49,312, and amendments thereto.

(e) For a member to be eligible for an additional interest credit, the member shall have an account balance at the time the interest credit is posted to the account.

Sec. 2. K.S.A. 2013 Supp. 74-49,308 is hereby amended to read as follows: 74-49,308. (a) A member's retirement annuity account is the sum of all employer credits to the account plus the interest credits on the account, which shall be credited no less frequently than quarterly, based on the account balances as of the last day of the preceding quarter. Effective January 1, 2015, the interest credits are ~~5.25%~~ 4% per annum. The legislature may from time to time prospectively change the interest credits, and expressly reserves the right to do so.

(b) ~~The board may, in the board's discretion, from time to time provide for an additional interest credit, subject to the following conditions:~~

~~(1) The additional interest credit may not exceed 4% per annum;~~

~~(2) if the funding ratio of the system as a whole, is equal to or more than 80% as certified by the board, the board shall provide for an addi-~~

~~tional interest credit which may not exceed the lesser of 4% or a percentage of the rate of return on the system's assets that is above 8% for a fiscal year which such percentage is equal to the overall funded ratio of the system as a whole for each fiscal year;~~

~~(3) the additional interest credit for a fiscal year shall not be granted unless the rate of return on the system's assets is at least 10% for that fiscal year; and~~

~~(4) if the funding ratio of the system as a whole is less than 80% as certified by the board, the board shall consider the funding of the system, market conditions, investment returns and other related factors specified by the board. The board shall provide for an annual additional interest credit. The additional interest credit shall be posted to the member's retirement annuity account on March 31 or as soon as practicable, based on the member's account value as of December 31 of the preceding year. The additional interest credit shall be determined as follows:~~

~~(1) For the annual additional interest credit based on the member's retirement annuity account balance as of December 31, 2015, the dividend shall be equal to 75% of the average net rate of return as determined by the board for calendar year 2015 on the market value of the system's assets that is above 6%, except that such additional interest credit shall not exceed 1.5%;~~

~~(2) for the annual additional interest credit based on the member's retirement annuity account balance as of December 31, 2016, the dividend shall be equal to 75% of the average net rate of return as determined by the board for calendar years 2015 and 2016 on the market value of the system's assets that is above 6%, except that such additional interest credit shall not exceed 1.5%;~~

~~(3) for the additional interest credit based on the member's retirement annuity account balance as of December 31, 2017, the dividend shall be equal to 75% of the average net rate of return as determined by the board for calendar years 2015, 2016 and 2017 on the market value of the system's assets that is above 6%, except that such additional interest credit shall not exceed 1.5%;~~

~~(4) for the additional interest credit based on the member's retirement annuity account balance as of December 31, 2018, the dividend shall be equal to 75% of the average net rate of return as determined by the board for calendar years 2015, 2016, 2017 and 2018 on the market value of the system's assets that is above 6%, except that such additional interest credit shall not exceed 1.5%; and~~

~~(5) for the additional interest credit based on the member's retirement annuity account balance as of December 31, 2019, and all calendar years thereafter, the dividend shall be equal to 75% of the five-year average net compound rate of return as determined by the board for that calendar year and the previous four calendar years on the market value of the system's assets that is above 6%.~~

(c) For a member to be eligible for an additional interest credit, the member shall have an account balance at the time the interest credit is posted to the account.

(d) Interest credits under subsections (a) and (b) shall not be granted on the member's non-vested retirement annuity account following the end of the second plan year following the member's termination of employment covered under the plan.

Sec. 3. K.S.A. 2013 Supp. 74-49,313 is hereby amended to read as follows: 74-49,313. (a) Except as provided in subsection (e), a member who has a nonforfeitable interest in the member's retirement annuity account, at any time after termination from service and the attainment of normal retirement age, shall receive an annuity based upon the balance in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and ~~interest rates established by the legislature~~ *an interest rate equal to the actuarial assumed investment rate of return established by the board minus 2%*, as of the member's annuity start date, ~~and such interest rate shall initially be 6%.~~ The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(b) Except as provided in subsection (e), a member who has a vested interest in the member's retirement annuity account, who terminates covered employment, without forfeiting such member's account, with the completion of at least 10 years of service, shall be eligible to receive, upon attainment of age 55, an annuity based upon employer credits and interest credits in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and an interest rate established by the legislature as of the member's annuity start date, and such interest rate shall initially be 6%. The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(c) The form of benefit payable under subsections (a) and (b) shall be a single life annuity with 10-year certain. The member may elect any option described in K.S.A. 74-4918, and amendments thereto, except the partial lump-sum option, subject to actuarial factors established by the board from time to time. The benefit option selected may include a self-funded cost-of-living adjustment feature, in which the account value is converted to a benefit amount that increases by a fixed percentage over time. One or more fixed percentages shall be established by the board, which may be changed from time to time. In lieu of a part of an annuity, for a member entitled to a benefit under subsection (a), the member may elect to receive a lump-sum of such member's retirement annuity account

of any fixed dollar amount or percent, but in no event may the lump-sum option elected under this section and the lump-sum option elected under subsection (a) of K.S.A. 2013 Supp. 74-49,311, and amendments thereto, exceed 30% of the total value of such member's annuity savings account and retirement annuity account.

(d) Except as provided in subsection (e), in the case of an active or inactive member:

- (1) Who is vested in the member's retirement annuity account;
- (2) who has five or more years of service at death; and
- (3) who dies before attaining normal retirement age, with such member's spouse at time of death designated as such member's sole primary beneficiary, the member's surviving spouse on and after the date the member would have attained normal retirement age had such member not died, shall receive an annuity based upon employer credits and interest credits in the retirement annuity account, using factors established by the board by official action as of the beneficiary's annuity start date. The form of benefit shall be a single life annuity with 10-year certain.

(e) If a member's vested retirement annuity account is less than \$1,000 upon separation from service, or the total of the member's vested retirement annuity account and annuity savings account balance is less than \$1,000, the account balance or balances shall be mandatorily distributed to the member in accordance with section 401(a)(31)(B) of the federal internal revenue code. If the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly, then the board will pay the distribution to the member directly.

Sec. 4. K.S.A. 2013 Supp. 74-49,306, 74-49,308 and 74-49,313 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 8, 2014.

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## CHAPTER 30

### HOUSE BILL No. 2548

AN ACT concerning the department of health and environment; relating to fee funds; creating the water program management fund; transferring the air quality fee fund; amending K.S.A. 65-3008 and 65-3024 and K.S.A. 2013 Supp. 65-166a and repealing the existing sections.

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

New Section 1. (a) There is hereby created in the state treasury the water program management fund. The secretary shall remit to the state

treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys collected or received by the secretary from the following sources: (1) Water pollution control permit system fees imposed pursuant to K.S.A. 65-166a, and amendments thereto;

(2) interest attributable to investment of moneys in the water program management fund;

(3) gifts, grants, reimbursements or appropriations intended to be used for the purposes of the fund, but excluding federal grants and cooperative agreements; and

(4) any other moneys provided by law.

Upon receipt of each such remittance, the state treasurer shall deposit in the state treasury any amount remitted pursuant to this subsection to the credit of the water program management fund.

(b) Moneys in the water program management fund shall be expended for the following purposes: (1) Monitoring and investigating the quality of waters of the state;

(2) payment of the state's share of the clean water act matching costs, as required by the federal clean water act, 33 U.S.C. § 1256(d);

(3) payment for emergency action by the secretary as necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release from a wastewater treatment facility;

(4) payment of the administrative, technical and legal costs incurred by the secretary in carrying out the provisions of K.S.A. 65-159 through 65-171y, and amendments thereto, including the cost of any additional employees or increased general operating costs of the department attributable therefore; and

(5) development of educational materials and programs for informing the public about water issues.

(c) Expenditures from the water program management fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or a person designated by the secretary.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the water program management fund interest earnings based on: (1) The average daily balance of moneys in the water program management fund for the preceding month; and

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

(e) The water program management fund shall be used for the purposes set forth in this act and for no other governmental purposes. It is the intent of the legislature that the fund shall remain intact and inviolate for the purposes set forth in this act, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(f) The secretary shall prepare and deliver to the legislature on or before the first day of each regular legislative session, a report which summarizes all expenditures from the water program management fund, fund revenues and recommendations regarding the adequacy of the fund to support necessary water program management programs.

Sec. 2. K.S.A. 2013 Supp. 65-166a is hereby amended to read as follows: 65-166a. (a) The secretary of health and environment is authorized and directed to establish by duly adopted rules or regulations a schedule of fees to defray all or any part of the costs of administering the water pollution control permit system established by K.S.A. 65-165 and 65-166, and amendments thereto. The amount of the fees so established shall be based upon the quantity of raw wastes or treated wastes to be discharged, units of design capacity of treatment facilities or structures, numbers of potential pollution units, physical or chemical characteristics of discharges and staff time necessary for review and evaluation of proposed projects. In establishing the fee schedule, the secretary of health and environment shall not assess fees for permits required in the extension of a sewage collection system, but such fees shall be assessed for all treatment devices, facilities or discharges where a permit is required by law and is issued by the secretary of health and environment or the secretary's designated representative. Such fees shall be nonrefundable.

(b) Any such permit for which a fee is assessed shall expire five years from the date of its issuance. The secretary of health and environment may issue permits pursuant to K.S.A. 65-165, and amendments thereto, for terms of less than five years, if the secretary determines valid cause exists for issuance of the permit with a term of less than five years. The minimum fee assessed for any permit issued pursuant to K.S.A. 65-165, and amendments thereto, shall be for not less than one year. Permit fees may be assessed and collected on an annual basis and failure to pay the assessed fee shall be cause for revocation of the permit. Any permit which has expired or has been revoked may be reissued upon payment of the appropriate fee and submission of a new application for a permit as provided in K.S.A. 65-165 and 65-166, and amendments thereto.

(c) A permit shall be required for:

(1) Any confined feeding facility with an animal unit capacity of 300 to 999 if the secretary determines that the facility has significant water pollution potential; and

(2) any confined feeding facility with an animal unit capacity of 1,000 or more.

(d) At no time shall the annual permit fee for a confined feeding facility exceed:

(1) \$25 for facilities with an animal unit capacity of not more than 999;

(2) \$100 for facilities with an animal unit capacity of 1,000 to 4,999;

(3) \$200 for facilities with an animal unit capacity of 5,000 to 9,999;  
or

(4) \$400 for facilities with an animal unit capacity of 10,000 or more.

(e) Annual permit fees for any truck washing facility for animal wastes shall be as follows:

(1) For a private truck washing facility for animal wastes with two or fewer trucks, not more than \$25;

(2) for a private truck washing facility for animal wastes with three or more trucks, not more than \$200; and

(3) for a commercial truck washing facility for animal wastes, not more than \$320.

(f) The secretary of health and environment shall remit all moneys received from the fees established pursuant to this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~state general fund~~ *water program management fund created in section 1, and amendments thereto*.

(g) Any confined feeding facility with an animal unit capacity of less than 300 may be required to obtain a permit from the secretary if the secretary determines that such facility has significant water pollution potential.

(h) Any confined feeding facility not otherwise required to obtain a permit or certification may obtain a permit or certification from the secretary. Any such facility obtaining a permit shall pay an annual permit fee of not more than \$25.

Sec. 3. K.S.A. 65-3008 is hereby amended to read as follows: 65-3008.

(a) No person shall construct, own, operate, install, alter or use any air contaminant emission stationary source which, in accordance with rules and regulations, the secretary finds may cause or contribute to air pollution, unless an appropriate approval or permit has been issued for the source by the secretary under this act. Approvals or permits issued by the secretary may be subject to conditions consistent with the purposes of this act and rules and regulations promulgated under this act.

(b) The secretary shall require that applications for approvals and permits, and renewals thereof, under this act shall be accompanied by application fees and such plans, specifications, compliance plans or other information as the secretary deems necessary. Applications shall be submitted on forms provided by the secretary and shall be signed by a responsible official of the source, who shall certify the accuracy of the information submitted.

(c) The issuance or holding of an approval or permit shall not convey any property right or exclusive privilege to the holder thereof.

(d) Without any further action on the part of the secretary, an ap-

proval or a permit shall become void and without effect on its expiration date unless a completed application form and any required fee are filed with the secretary on or before the expiration date of the approval or the permit. For purposes of this subsection, the secretary may specify by rule and regulation an amount of time prior to the expiration date of an operating permit by which a complete application form and any required fee must be filed with the secretary in order to be considered timely filed. The secretary may provide for a grace period by rule and regulation.

(e) The secretary may issue by rule and regulation a general approval or permit covering numerous similar sources. Any general approval or permit shall comply with all requirements applicable to approvals or permits under this act. Any source covered by a general approval or permit must apply to the secretary and receive authority to operate under the general approval or permit.

(f) The secretary may fix, charge and collect fees for approvals and permits, and the renewal thereof, to cover all or any part of the cost of administering the provisions of Kansas air quality act, other than K.S.A. 65-3027, and amendments thereto. The secretary shall adopt rules and regulations fixing such fees. The fees shall be deposited in the state treasury and credited to the ~~state general fund~~ *air quality fee fund established in K.S.A. 65-3024, and amendments thereto*, except that if all or any portion of the regulatory services for which a fee is collected under this section is performed by a county, city-county or multicounty health department, that portion of such fee which pertains to such services, as determined by the secretary, shall be credited to the local air quality control authority regulation services fund, which is hereby created in the state treasury, and shall be paid from such fund to such local air quality control authority.

Sec. 4. K.S.A. 65-3024 is hereby amended to read as follows: 65-3024. (a) The secretary may fix, charge and collect annual emissions fees in amounts necessary to pay the direct and indirect costs of administering the provisions of the Kansas air quality act. The secretary shall adopt rules and regulations fixing such fees and shall periodically increase or decrease such fees consistent with the need to cover the direct and indirect costs of administering the program. To the extent possible, annual emission fees shall be based upon actual emissions determined pursuant to rules and regulations adopted by the secretary. For purposes of determining emission fees for a facility, emissions of any single regulated pollutant in excess of 4,000 tons per year shall not be included in the calculation when determining the total emissions from the facility.

(b) There is hereby established in the state treasury the air quality fee fund. Revenue from the following sources shall be deposited in the state treasury and credited to the fund:

- (1) Fees collected under subsection (a);

(2) any moneys recovered by the state under the provisions of this act, including *permit and approval fees collected under K.S.A. 65-3008, and amendments thereto*, administrative expenses, civil penalties and moneys paid under any agreement, stipulation or settlement; and

(3) interest attributable to investment of moneys in the fund.

(c) Moneys deposited in the fund shall be expended only for the purpose of administering the Kansas air quality act, including funding of a technical and environmental compliance assistance program, and for no other governmental purposes.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the air quality fee fund interest earnings based on:

(1) The average daily balance of moneys in the air quality fee fund for the preceding month; and

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

(e) All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth in this section.

Sec. 5. K.S.A. 65-3008 and 65-3024 and K.S.A. 2013 Supp. 65-166a are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 8, 2014.

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## CHAPTER 31

### HOUSE BILL No. 2564

AN ACT concerning retirement and benefits; relating to the Kansas public employees retirement system; normal retirement date; requiring 60-day re-employment wait; amending K.S.A. 2013 Supp. 74-49,204 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 74-49,204 is hereby amended to read as follows: 74-49,204. The normal retirement date for a member of the system first employed by a participating employer on or after July 1, 2009, shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within ~~30~~ 60 days and the attainment of age 65 with the completion of five years of credited service, or age 60 with the completion of 30 years of credited service. The provisions

of this section shall apply to a member of the retirement system who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto.

Sec. 2. K.S.A. 2013 Supp. 74-49,204 is hereby repealed.

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

Approved April 8, 2014.

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## CHAPTER 32

### HOUSE BILL No. 2478°

AN ACT concerning criminal procedure; relating to jurisdiction and venue; crimes committed with an electronic device.

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

Section 1. (a) “Crime committed with an electronic device” means the commission of any crime that involves or is facilitated by the use of any electronic device. All violations of the following are crimes committed with an electronic device: Criminal use of a financial card, as defined in K.S.A. 2013 Supp. 21-5828, and amendments thereto; unlawful acts concerning computers, as defined in K.S.A. 2013 Supp. 21-5839, and amendments thereto; identity theft and identity fraud, as defined in K.S.A. 2013 Supp. 21-6107, and amendments thereto; and electronic solicitation, as defined in K.S.A. 2013 Supp. 21-5509, and amendments thereto.

(b) In addition to the venue provided for under any other provision of law, a prosecution for any crime committed with an electronic device may be brought in the county in which:

- (1) Any requisite act to the commission of the crime occurred;
- (2) the victim resides;
- (3) the victim was present at the time of the crime; or
- (4) property affected by the crime was obtained or was attempted to be obtained.

(c) This section shall be a part of and supplemental to the Kansas code for criminal procedure.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 8, 2014.

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## CHAPTER 33

## HOUSE BILL No. 2547

AN ACT concerning mines and mining; relating to mining permit applications; amending K.S.A. 49-406 and repealing the existing section.

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

Section 1. K.S.A. 49-406 is hereby amended to read as follows: 49-406. (a) No operator shall engage in surface mining unless such operator possesses a valid permit issued by the secretary designating the area of land affected by the operation. The permit shall authorize the operator to engage in surface mining upon the area of land described in such permit and shall be valid for a period not to exceed five years from the date of its issuance unless sooner revoked or suspended as herein provided. All surface mining conducted under such permit shall comply with the requirements of the surface mining control and reclamation act of 1977 (public law 95-87) and the regulations issued thereunder. It shall be the duty of each producer holding a permit within the state of Kansas to file an annual statement setting forth the full amount of coal mined or taken from each source or deposit and to identify the specific source or deposit from which taken. Such statement shall be filed with the secretary upon forms provided by the department not later than 30 days after the end of each calendar year. All operators shall apply for new permits within two months following approval of the state reclamation program by the secretary of the interior, pursuant to the final program provisions of the national surface mining control and reclamation act of 1977 (public law 95-87), who expect to operate a mine or mines after the expiration of eight months following such approval of this act.

(b) The application for the permit shall include: (1) ~~Five copies~~ *One copy* of a United States geological survey topographic map on which the operator has indicated the location of the area of land affected, the course which would be taken by drainage from the area of land affected to the nearest stream or streams to which such drainage would normally flow, the name of the applicant and the date.

(2) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area within 500 feet of any part of the affected area.

(3) All persons with any interest in the coal to be mined.

(4) The source of the applicant's legal right to mine the coal or other minerals affected by the permit.

(5) The permanent and temporary post-office address of the applicant.

(6) Whether the applicant or any person, firm, partnership or corporation associated with the applicant holds or has held any other permits under this act; and, if so, an identification of such permits.

(7) The written consent of the applicant and such other persons, if any, necessary to grant such access to the secretary and the secretary's designee to the area of land affected under application from the date of application until the expiration of any permit granted under such application and thereafter for such time as is necessary to assure compliance with all provisions of this act or any rule or regulation promulgated hereunder.

(8) A determination of probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the department of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area, and particularly upon water availability. This determination shall not be required until hydrologic information on the general area prior to mining is made available from appropriate governmental agencies, but a permit shall not be approved until such information is available and is incorporated into the application. If the secretary finds that the probable total annual production at all locations of any operator will not exceed 100,000 tons, the determination of probable hydrologic consequences, and any statement required by the secretary concerning results of test borings or core samplings, shall, upon written operator request, be performed by a qualified public or private laboratory designated by the secretary, at departmental expense.

(9) Such other information as may be required by the secretary in order to qualify to administer the regulatory programs adopted by the United States department of the interior, office of surface mining reclamation and enforcement, pursuant to the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto.

(c) At the time of submission of the application for a permit, or amendment to a permit, the operator shall submit to the secretary proof of publication which shall contain such data and be in such form as the secretary shall require by regulations consistent with the national surface mining control and reclamation act of 1977 (public law 95-87), which notice shall be published at least once a week for four consecutive weeks. The secretary, in accordance with regulations consistent with such national act, shall notify appropriate public agencies of the operator's intention to mine, and shall receive and make available for public inspection the written comments or objections of such agencies and any person having an interest possibly affected adversely by proposed operations. The secretary also shall prescribe by regulations consistent with such national act, a system for holding informal conferences in the area of proposed operations with public notice thereof.

(d) The application for a permit shall be accompanied by an enlarged United States geological survey topographic map prepared and certified by a professional engineer or geologist containing the following: (1) An identification of the area to correspond with the application.

(2) The boundaries of surface properties and names of owners on the area of land affected, adjacent deep mines, and the name of the owner or owners of the surface area within 1,000 feet of any part of the area of land affected, and, if known to the operator, the existence of adjacent deep mines.

(3) Be of a scale of not less than 400 feet to the inch and not to exceed 660 feet to the inch.

(4) Show the names and locations of all streams, creeks or other bodies of public water, roads, buildings, cemeteries, oil and gas wells and utility lines on the area to be mined and within 1,000 feet of such area.

(5) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit to be mined, and the total number of acres involved in the area of land affected.

(6) Show the date on which the map was prepared, the north point and the quadrangle name.

(7) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the nearest streams or tributaries receiving the discharge.

(8) A verified statement by the operator containing the proposed method of operation, grading, reclamation and conservation plan for the affected area including dates and approximate time of completion, and that the operation will meet the requirements of this act, or any rule or regulation promulgated hereunder.

(9) The certification of the maps by the professional engineer or geologist shall read as follows: "I, the undersigned, hereby certify that this map is correct and shows to the best of my knowledge and belief all the information required by the surface mining laws of this state." The certification shall be signed and, in the case of an engineer, the engineer's seal affixed.

(10) Such other information as may be required by the secretary in order to qualify to administer the regulatory programs adopted by the United States department of the interior, office of surface mining reclamation and enforcement, pursuant to the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto.

Nothing in this subsection shall be construed to permit the practice of engineering, as defined by K.S.A. 74-7001, and amendments thereto, by a geologist.

(e) The application for a permit shall be accompanied by a plan of reclamation that meets the requirements of this act, and the rules and

regulations promulgated hereunder and the requirements necessary for the secretary to qualify to administer the regulatory programs adopted by the United States department of the interior, office of surface mining reclamation and enforcement, pursuant to the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto.

(f) The secretary shall not approve the application for a permit to mine where such mining would constitute a hazard to a residence, public building, school, church, cemetery, commercial or residential building, public road, stream, lake or other property. No surface coal mining operations shall be permitted within 100 feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line and except that the secretary may permit such roads to be relocated or the area affected to lie within 100 feet of such road, if after public notice and opportunity for public hearing in the locality, a written finding is made that the interests of the public and the landowners affected thereby will be protected; or within 300 feet from any occupied dwelling, unless waived by the owner thereof, nor within 300 feet of any public building, school, church, community, or institutional building, public park, or within 100 feet of a cemetery.

(g) (1) A basic fee of \$50 plus a fee in an amount to be fixed by the secretary for every acre and fraction of an acre of land to be affected shall be paid at the time of application.

(2) Each permittee shall be assessed a per ton fee on every ton of coal extracted.

(3) Pursuant to paragraph (2) of this subsection (g), the per ton fee shall be an amount not less than \$.03 and not more than \$.10 per ton of coal extracted each calendar year. This per ton fee shall be paid to the department on a quarterly basis and it shall be due within 30 calendar days after the beginning of each calendar quarter.

(4) Fees established under this subsection shall be fixed by the secretary, subject to restrictions and limitations imposed by this subsection, in amounts deemed necessary to administer and enforce the provisions of the mined-land conservation and reclamation act.

(h) (1) After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the secretary, on a form prescribed and furnished by the department, a bond for performance payable to the state treasurer, and conditional upon faithful performance of all the requirements of this act and the permit. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the operator shall file with the department an additional bond or bonds to cover such in-

crements as required by the secretary. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit; shall reflect the probable difficulty of reclamation giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential; and shall be determined by the secretary. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the department in the event of forfeiture and in no case shall the bond for the entire area under one permit be less than \$10,000.

(2) Liability under the bond shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with operator's responsibility for revegetation requirements. Surety bonds shall be executed by the operator and a corporate surety licensed to do business in Kansas.

(3) The amount of the bond required and the terms of each acceptance of the applicant's bond shall be adjusted by the secretary from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes.

(4) Subject to ~~provision~~ *paragraph* (5), an applicant may elect to satisfy the bonding requirements of this subsection by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas, negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas or irrevocable letters of credit of any such bank. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(5) An applicant may elect to satisfy the bonding requirements of this subsection by depositing with the state treasurer cash or any of the securities specified in ~~provision~~ *paragraph* (4) or any combination thereof and a first mortgage on real estate which in the aggregate shall be equal to or greater than the amount of the bond required for the bonded area. The mortgage shall be equal in value to not more than 50% of the amount of the bond and shall be secured by real estate which has an appraised value equal to or greater than twice the amount of the mortgage.

(i) Each permit applicant shall submit to the department as part of the application, a certificate issued by an insurance company licensed to do business in Kansas, certifying that the applicant has a public liability policy in force for all operations under the permit applied for, providing personal injury and property damage insurance in an amount adequate to compensate persons damaged as a result of mining and reclamation operations, including use of explosives, and entitled to compensation under the laws of Kansas. The secretary may establish, by regulations, the amount of such insurance to be carried. Such policy shall be maintained during the term of the permit and any renewal, and be continued until completion of all operations.

(j) Where one operator succeeds another at any uncompleted operation, either by sale, assignment, lease or otherwise, the secretary may release the first operator from all liability under this act as to that particular operation. If two or more operators have been issued a permit for the same operation and have otherwise complied with the requirements of the act and regulations promulgated pursuant thereto, the successor operator shall assume as part of such operator's obligation under the act, all liability for the reclamation of the area of land affected by the former operator.

(k) A valid permit issued by the secretary may be renewed with respect to areas within boundaries of the existing permit, upon application by the permit holder. The burden shall be upon the applicant, subsequent to fulfillment of public notice requirements of the national surface mining control and reclamation act of 1977 (public law 95-87), to establish, subject to confirmation by written findings of the secretary, that:

(1) Terms and conditions of the existing permit are satisfactorily met;  
~~and~~

(2) present mining and reclamation operations are in compliance with environmental protection standards imposed by this act and the national surface mining control and reclamation act of 1977 (public law 95-87);  
~~and~~

(3) renewal will not substantially jeopardize the operator's continuing responsibility on existing permit areas;  
~~and~~

(4) the operator has provided evidence that the performance bond in effect for the operation together with any additional bond required by the secretary, will continue in full force and effect for any renewal requested; and

(5) any additional revised or updated information required by the secretary has been provided.

Prior to approval of any permit renewal, the secretary shall provide notice to any appropriate public authorities.

(l) If a renewal application includes a proposal to extend operations beyond existing permit boundaries, that portion of the application applicable to areas beyond existing permit boundaries shall be subject to all standards applicable to new permits. Permit renewals shall not be issued for terms greater than provided for original permits, and applications for renewal permits shall be made at least 120 days prior to expiration of the existing permit.

(m) Each permit applicant shall file a copy of the application for public inspection at the field office of the department, which copy need not contain information relating to the coal seam itself. Any person with an interest which may be adversely affected shall be furnished with information pertaining to coal seams, test borings, core samplings, or soil samples, if such information is required by the secretary, together with data respecting location of subsurface water and analysis of chemical proper-

ties including acid forming properties of the mineral and overburden. Information pertaining only to the analysis of the chemical and physical properties of the coal, excepting information regarding such mineral or elemental content which is potentially toxic in the environment, shall be kept confidential and not made a matter of public record.

Sec. 2. K.S.A. 49-406 is hereby repealed.

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

Approved April 8, 2014.

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## CHAPTER 34

### HOUSE BILL No. 2445

AN ACT concerning criminal procedure; relating to discovery; amending K.S.A. 22-3213 and K.S.A. 2013 Supp. 22-3212 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 22-3212 is hereby amended to read as follows: 22-3212.(a) Upon request, the prosecuting attorney shall permit the ~~defendant~~ defense to inspect and copy or photograph the following, if relevant: (1) Written or recorded statements or confessions made by the defendant, or copies thereof, which are or have been in the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (2) results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case, or copies thereof, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (3) recorded testimony of the defendant before a grand jury or at an inquisition; and (4) memoranda of any oral confession made by the defendant and a list of the witnesses to such confession, the existence of which is known, or by the exercise of due diligence may become known to the prosecuting attorney.

(b) (1) Except as provided in subsection (l), upon request, the prosecuting attorney shall permit the ~~defendant~~ defense to inspect and copy or photograph books, papers, documents, tangible objects, buildings or places, or copies, or portions thereof, which are or have been within the possession, custody or control of the prosecution, and which are material to the case and will not place an unreasonable burden upon the prosecution.

(2) *The prosecuting attorney shall also provide a summary or written report of what any expert witness intends to testify to on direct exami-*

*nation, including the witness' qualifications and the witness' opinions, at a reasonable time prior to trial by agreement of the parties or by order of the court.*

~~(2)~~(3) Except as provided in subsections (a)(2) and (a)(4), and as otherwise provided by law, this section does not authorize the discovery or inspection of reports, memoranda or other internal government documents made by officers in connection with the investigation or prosecution of the case, or of statements made by state witnesses or prospective state witnesses, other than the defendant.

~~(3)~~(4) Except as provided in subsection (g), this section does not require the prosecuting attorney to provide unredacted vehicle identification numbers or personal identifiers of persons mentioned in such books, papers or documents.

~~(4)~~(5) As used in this subsection, personal identifiers include, but are not limited to, birthdates, social security numbers, taxpayer identification numbers, drivers license numbers, account numbers of active financial accounts, home addresses and personal telephone numbers of any victims or material witnesses.

~~(5)~~(6) If the prosecuting attorney does provide the defendant's counsel with unredacted vehicle identification numbers or personal identifiers, the defendant's counsel shall not further disclose the unredacted numbers or identifiers to the defendant or any other person, directly or indirectly, except as authorized by order of the court.

~~(6)~~(7) If the prosecuting attorney provides books, papers or documents to the defendant's counsel with vehicle identification numbers or personal identifiers redacted by the prosecuting attorney, the prosecuting attorney shall provide notice to the defendant's counsel that such books, papers or documents had such numbers or identifiers redacted by the prosecuting attorney.

~~(7)~~(8) Any redaction of vehicle identification numbers or personal identifiers by the prosecuting attorney shall be by alteration or truncation of such numbers or identifiers and shall not be by removal.

(c) If the ~~defendant~~ defense seeks discovery and inspection under subsection (a)(2) or subsection (b), the ~~defendant~~ defense shall:

(1) Permit the attorney for the prosecution to inspect and copy or photograph scientific or medical reports, books, papers, documents, tangible objects, or copies or portions thereof, which the ~~defendant~~ defense intends to produce at any hearing, are material to the case and will not place an unreasonable burden on the defense; and

(2) provide for the attorney for the prosecution, ~~no less than 30 days prior to trial,~~ a summary or written report of what any expert witness intends to testify, including the witness' qualifications; ~~and the witness' opinions and the bases and reasons for such opinions,~~ *at a reasonable time prior to trial by agreement of the parties or by order of the court.*

(d) Except as to scientific or medical reports, subsection (c) does not

authorize the discovery or inspection of reports, memoranda or other internal defense documents made by the defendant, or the defendant's attorneys or agents in connection with the investigation or defense of the case, or of statements made by the defendant, or by prosecution or defense witnesses, or by prospective prosecution or defense witnesses, to the defendant, the defendant's agents or attorneys.

(e) All disclosures shall be made at the times and in the sequence directed by the court. In the absence of other directions from the court or stipulation by the parties, such disclosures shall be made as provided in this section.

(f) The prosecuting attorney and the ~~defendant~~ *defense* shall cooperate in discovery and reach agreement on the time, place and manner of making the discovery and inspection permitted, so as to avoid the necessity for court intervention.

(g) Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted, enlarged or deferred or make such other order as is appropriate. Upon motion, the court may permit either party to make such showing, in whole or in part, in the form of a written statement to be inspected privately by the court. If the court enters an order granting relief following such a private showing, the entire text of the statement shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

(h) Discovery under this section must be completed no later than 21 days after arraignment or at such reasonable later time as the court may permit.

(i) If, subsequent to compliance with an order issued pursuant to this section, and prior to or during trial, a party discovers additional material previously requested or ordered which is subject to discovery or inspection under this section, the party shall promptly notify the other party or the party's attorney or the court of the existence of the additional material. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this section or with an order issued pursuant to this section, the court may order such party to permit the discovery or inspection of materials not previously disclosed, grant a continuance, or prohibit the party from introducing in evidence the material not disclosed, or it may enter such other order as it deems just under the circumstances.

(j) For crimes committed on or after July 1, 1993, the prosecuting attorney shall provide all prior convictions of the defendant known to the prosecuting attorney that would affect the determination of the defendant's criminal history for purposes of sentencing under a presumptive sentencing guidelines system as provided in K.S.A. 21-4701 et seq., prior to their repeal, or the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(k) The prosecuting attorney and ~~defendant~~ *defense* shall be permit-

ted to inspect and copy any juvenile files and records of the defendant for the purpose of discovering and verifying the criminal history of the defendant.

(1) (1) In any criminal proceeding, any property or material that constitutes a visual depiction, as defined in subsection (a)(2) of K.S.A. 2013 Supp. 21-5510, and amendments thereto, shall remain in the care, custody and control of either the prosecution, law enforcement or the court.

(2) Notwithstanding subsection (b), if the state makes property or material described in this subsection reasonably available to the ~~defendant~~ *defense*, the court shall deny any request by the ~~defendant~~ *defense* to copy, photograph, duplicate or otherwise reproduce any such property or material submitted as evidence.

(3) For the purpose of this subsection, property or material described in this subsection shall be deemed to be reasonably available to the ~~defendant~~ *defense* if the prosecution provides ample and liberal opportunity for inspection, viewing and examination of such property or material at a government facility, whether inside or outside the state of Kansas, by the defendant, the defendant's attorney and any individual the defendant may seek to qualify to furnish expert testimony at trial.

Sec. 2. K.S.A. 22-3213 is hereby amended to read as follows: 22-3213. ~~(1)~~-(a) In any criminal prosecution brought by the state of Kansas, no statement or report in the possession of the prosecution which was made by a state witness or prospective state witness ~~}, other than the defendant},~~ shall be the subject of subpoena, discovery, or inspection until ~~said~~ *such* witness has testified on direct examination at the preliminary hearing or in the trial of the case.

~~(2)~~-(b) After a witness called by the state has testified on direct examination, the court shall, on motion of the defendant, order the prosecution to produce any statement ~~}, as hereinafter defined} in subsection (d),~~ of the witness in the possession of the prosecution which relates to the subject matter as to which the witness has testified. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the ~~defendant~~ *defense* for ~~his~~ examination and use *by the defense*.

~~(3)~~-(c) If the prosecution claims that any statement ordered to be produced under this section contains matter which does not relate to the subject matter of the testimony of the witness, the court shall order the prosecution to deliver such statement for the inspection of the court in camera. Upon such delivery the court shall excise the portions of such statement which do not relate to the subject matter of the testimony of the witness. With such material excised, the court shall then direct delivery of such statement to the ~~defendant~~ *defense* for ~~his~~ use *by the defense*. If, pursuant to such procedure, any portion of such statement is withheld from the ~~defendant~~ *defense* and the ~~defendant~~ *defense* objects to such

withholding, and the trial is continued to an adjudication of the guilt of the defendant, the entire text of such statement shall be preserved by the prosecution and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a ~~defendant~~ ~~defense~~ pursuant to this section, the court in its discretion, upon application of ~~said defendant~~ ~~the defense~~, may recess proceedings in the trial for such time as it may determine to be reasonably required for the examination of such statement by ~~said defendant~~ ~~the defense~~ and ~~his~~ preparation for its use in the trial.

~~(4)(d)~~ The term “statement,” as used in subsections ~~(2)(b)~~ and ~~(3)(c)~~ of this section in relation to any witness called by the prosecution means—:

~~(a)(1)~~ A written statement made by ~~said~~ ~~such~~ witness and signed or otherwise adopted or approved by ~~him~~ ~~such~~ witness; or

~~(b)(2)~~ a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by ~~said~~ ~~such~~ witness and recorded contemporaneously with the making of such oral statement.

Sec. 3. K.S.A. 22-3213 and K.S.A. 2013 Supp. 22-3212 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 8, 2014.



CHAPTER 35

HOUSE BILL No. 2727

AN ACT concerning accessible parking; relating to special license plates and permanent placards, expiration; amending K.S.A. 2013 Supp. 8-1,125 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 8-1,125 is hereby amended to read as follows: 8-1,125. (a) Any Kansas resident who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person is a person with a disability or is responsible for the transportation of a person with a disability shall be issued a special license plate or a permanent placard for any motor vehicle owned by such person or shall be issued a temporary placard. Satisfactory proof of disability, condition or impairment shall include a statement from a person licensed to practice the healing arts in any state, a licensed optometrist, an advanced practice

registered nurse licensed under K.S.A. 65-1131, and amendments thereto, a licensed physician assistant or a Christian Science practitioner listed in The Christian Science Journal certifying that such person is a person with a disability. The placard shall be suspended immediately below the rear view mirror of any motor vehicle used for the transportation of a person with a disability so as to be maximally visible from outside the vehicle. In addition to the special license plate or permanent placard, the director of vehicles shall issue to the person with a disability an individual identification card which must be carried by the person with a disability when the motor vehicle being operated by or used for the transportation of such person is parked in accordance with the provisions of K.S.A. 8-1,126, and amendments thereto. In addition to the temporary placard, a person issued such temporary placard shall carry the state or county receipt showing the name of the person who is issued such temporary placard. A person submitting satisfactory proof that such person's disability, condition or impairment is permanent in nature, and upon such person's request and payment of the fees prescribed in subsection (b), shall be issued a permanent placard or a permanent placard and a special license plate and an individual identification card. Upon proper request, one additional permanent placard shall be issued to the applicant who has not requested and received a special license plate. Upon proper request, one additional temporary placard shall be issued to the applicant certified as temporarily disabled. Temporary placards shall have an expiration date of not longer than six months from the date of issuance. The special license plates and placards shall display the international symbol of access to the physically disabled.

(b) Special license plates issued pursuant to this section shall be issued for the same period of time as other license plates are issued or for the remainder of such period if an existing license plate is to be exchanged for the special license plate. There shall be no fee for such special license plates in addition to the regular registration fee. No person shall be issued more than one special license plate, except that agencies or businesses which provide transportation for persons with a disability as a service, may obtain additional special license plates for vehicles which are utilized in the provision of that service. Special license plates may be personalized license plates subject to the provisions of K.S.A. 8-132, and amendments thereto, including the payment of the additional fee.

(c) ~~Except as otherwise provided in this section, placards and individual identification cards issued pursuant to this section shall be issued for such period of time as the person to whom issued continues to be a person with a disability or a person responsible for the transportation of a person with a disability, except that the secretary of revenue shall make a determination of continued eligibility for a special license plate or placard at least every three years from the original date of issuance of such license plate and placard.~~ *Placards and individual identification cards is-*

*sued pursuant to this section shall be valid as long as the person or a person responsible for the transportation of a person with a disability is eligible for a special license plate or permanent placard. The secretary of revenue shall promulgate the rules and regulations necessary to remain compliant with 23 C.F.R. § 1235.4.*

(d) The color of the permanent placard shall be white on a blue background and the temporary placard shall be white on a red background.

(e) In addition to such other information contained on individual identification cards, cards shall have the date of birth and the sex of the person to whom the card is issued.

(f) Permanent placards and individual identification cards shall be returned to the department of revenue upon the death of the person with a disability. Temporary placards shall be returned to the department of revenue upon the expiration of the placard or upon the death of the person with a disability. Special license plates shall be returned to the county treasurer to be exchanged for another license plate upon the death of the person with a disability. The individual identification cards issued with the special license plates shall be returned to the department of revenue upon the death of the person with a disability.

(g) Violation of subsection (f) is an unclassified misdemeanor punishable by a fine of not more than \$50.

Sec. 2. K.S.A. 2013 Supp. 8-1,125 is hereby repealed.

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

Approved April 8, 2014.

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## CHAPTER 36

HOUSE BILL No. 2566  
(Amended by Chapter 117)

AN ACT concerning court fees; relating to forensic and scientific laboratories; amending K.S.A. 2013 Supp. 28-176 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 28-176 is hereby amended to read as follows: 28-176. (a) The court shall order any person convicted or diverted, or adjudicated or diverted under a preadjudication program pursuant to K.S.A. 22-2906 et seq., K.S.A. 2013 Supp. 38-2346 et seq., or 12-4414, and amendments thereto, of a misdemeanor or felony contained in chapters 21, 41 or 65 of the Kansas Statutes Annotated, and amendments thereto, or a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or a violation of a municipal ordinance or county resolution

prohibiting the acts prohibited by such statutes, unless the municipality or county has an agreement with the laboratory providing services that sets a restitution amount to be paid by the person that is directly related to the cost of laboratory services, to pay a separate court cost of \$400 for every individual offense if forensic science or laboratory services ~~or~~, forensic computer examination services *or forensic audio and video examination services* are provided, in connection with the investigation, by:

- (1) The Kansas bureau of investigation;
- (2) the Sedgwick county regional forensic science center;
- (3) the Johnson county sheriff's laboratory;
- (4) the heart of America regional computer forensics laboratory; ~~or~~
- (5) the Wichita-Sedgwick county computer forensics crimes unit; *or*
- (6) *the Garden City police department computer, audio and video forensics laboratory.*

(b) Such fees shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

(c) The court shall not lessen or waive such fees unless the court has determined such person is indigent and the basis for the court's determination is reflected in the court's order.

(d) Such fees shall be deposited into the designated fund of the laboratory or forensic science or computer center that provided such services. Fees for services provided by:

- (1) The Kansas bureau of investigation shall be deposited in the Kansas bureau of investigation forensic laboratory and materials fee fund;
- (2) the Sedgwick county regional forensic science center shall be deposited in the Sedgwick county general fund;
- (3) the Johnson county sheriff's laboratory shall be deposited in the Johnson county sheriff's laboratory analysis fee fund;
- (4) the heart of America regional computer forensics laboratory shall be deposited in the general treasury account maintained by such laboratory; ~~and~~

(5) the Wichita-Sedgwick county computer forensic crimes unit shall be retained by the Sedgwick county sheriff. All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office; *and*

(6) *the Garden City police department computer, audio and video forensics laboratory shall be deposited in the Garden City general fund.*

(e) Disbursements from the funds and accounts described in subsection (d) shall be made for the following:

- (1) Forensic science or laboratory services;
- (2) forensic computer examination services;
- (3) *forensic audio and video examination services;*
- ~~(3)~~(4) purchase and maintenance of laboratory equipment and supplies;

~~(4)~~(5) education, training and scientific development of personnel; and

~~(5)~~(6) from the Kansas bureau of investigation forensic laboratory and materials fee fund, the destruction of seized property and chemicals as described in K.S.A. 22-2512 and 60-4117, and amendments thereto.

Sec. 2. K.S.A. 2013 Supp. 28-176 is hereby repealed.

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

Approved April 8, 2014.

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## CHAPTER 37

### HOUSE BILL No. 2047

AN ACT concerning property taxation; relating to revenues produced by property tax levies; votes to increase revenues; publication; amending K.S.A. 2013 Supp. 79-2925b and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 79-2925b is hereby amended to read as follows: 79-2925b. (a) ~~Without adoption of a resolution or ordinance a majority vote~~ so providing, the governing body of any ~~taxing subdivision municipality~~ shall not approve any appropriation or budget, as the case requires, which may be funded by revenue produced from property taxes, and which provides for funding with such revenue in an amount exceeding that of the next preceding year, ~~except with regard to revenue produced and attributable to the taxation of,~~ *adjusted to reflect changes in the consumer price index for all urban consumers as published by the United States department of labor for the preceding calendar year. If the total tangible property valuation in any municipality increases from the next preceding year due to increases in the assessed valuation of existing tangible property and such increase exceeds changes in the consumer price index, the governing body shall lower the amount of ad valorem tax to be levied to the amount of ad valorem tax levied in the next preceding year, adjusted to reflect changes in the consumer price index. This subsection shall not apply to ad valorem taxes levied under K.S.A. 72-6431, 76-6b01 and 76-6b04, and amendments thereto, and any other ad valorem tax levy which was previously approved by the voters of such municipality. Notwithstanding the requirements of this subsection, nothing herein shall prohibit a municipality from increasing the amount of ad valorem tax to be levied if the municipality approves the increase with a majority vote of the governing body and publishes such vote as provided in subsection (c).*

(b) Revenue that, in the current year, is produced and attributable to the taxation of:

- (1) New improvements to real property;
- (2) increased personal property valuation, other than increased valuation of oil and gas leaseholds and mobile homes;
- (3) property located within added jurisdictional territory; ~~and or~~
- (4) property which has changed in use *shall not be considered when determining whether revenue produced from property has increased from the next preceding year.*

~~(b)~~ (c) *In the event the governing body votes to approve any appropriation or budget, as the case requires, which may be funded by revenue produced from property taxes, and which provides for funding with such revenue in an amount exceeding that of the next preceding year as provided in subsection (a), notice of such vote shall be published in the official county newspaper of the county where such municipality is located.*

(d) The provisions of this section shall be applicable to all fiscal and budget years commencing on and after the effective date of this act.

~~(c)~~ ~~The provisions of this section shall not apply to community colleges or unified school districts.~~

~~(d)~~ (e) The provisions of this section shall not apply to revenue received from property tax levied for the sole purpose of repayment of the principal of and interest upon bonded indebtedness, temporary notes and no-fund warrants.

(f) *For purposes of this section, “municipality” means any political subdivision of the state which levies an ad valorem tax on property and includes, but is not limited to, any county, township, municipal university, school district, community college, drainage district or other taxing district. “Municipality” shall not include any such political subdivision or taxing district which receives \$1,000 or less in revenue from property taxes in the current year.*

Sec. 2. K.S.A. 2013 Supp. 79-2925b is hereby repealed.

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

Approved April 8, 2014.

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## CHAPTER 38

HOUSE BILL No. 2455  
(Amended by Chapter 119)

AN ACT concerning property taxation; relating to exemptions; certain utility systems and appurtenances located on military installations; amending K.S.A. 2013 Supp. 79-201a and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 79-201a is hereby amended to read as follows: 79-201a. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

*First.* All property belonging exclusively to the United States, except property which congress has expressly declared to be subject to state and local taxation.

*Second.* All property used exclusively by the state or any municipality or political subdivision of the state. All property owned, being acquired pursuant to a lease-purchase agreement or operated by the state or any municipality or political subdivision of the state, including property which is vacant or lying dormant, which is used or is to be used for any governmental or proprietary function and for which bonds may be issued or taxes levied to finance the same, shall be considered to be used exclusively by the state, municipality or political subdivision for the purposes of this section. The lease by a municipality or political subdivision of the state of any real property owned or being acquired pursuant to a lease-purchase agreement for the purpose of providing office space necessary for the performance of medical services by a person licensed to practice medicine and surgery or osteopathic medicine by the board of healing arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto, dentistry services by a person licensed by the Kansas dental board pursuant to K.S.A. 65-1401 et seq., and amendments thereto, optometry services by a person licensed by the board of examiners in optometry pursuant to K.S.A. 65-1501 et seq., and amendments thereto, or K.S.A. 74-1501 et seq., and amendments thereto, podiatry services by a person licensed by the board of healing arts pursuant to K.S.A. 65-2001 et seq., and amendments thereto, or the practice of psychology by a person licensed by the behavioral sciences regulatory board pursuant to K.S.A. 74-5301 et seq., and amendments thereto, shall be construed to be a governmental function, and such property actually and regularly used for such purpose shall be deemed to be used exclusively for the purposes of this paragraph. The lease by a municipality or political subdivision of the state of any real property, or portion thereof, owned or being acquired pursuant to a lease-purchase agreement to any entity for the exclusive use by it for an exempt purpose, including the purpose of displaying or exhibiting personal property by a museum or historical society, if no portion of the lease payments include compensation for return on the investment in such leased prop-

erty shall be deemed to be used exclusively for the purposes of this paragraph. All property leased, other than motor vehicles leased for a period of at least one year and property being acquired pursuant to a lease-purchase agreement, to the state or any municipality or political subdivision of the state by any private entity shall not be considered to be used exclusively by the state or any municipality or political subdivision of the state for the purposes of this section except that the provisions of this sentence shall not apply to any such property subject to lease on the effective date of this act until the term of such lease expires but property taxes levied upon any such property prior to tax year 1989, shall not be abated or refunded. Any property constructed or purchased with the proceeds of industrial revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 12-1740 through 12-1749, and amendments thereto, or purchased with proceeds of improvement district bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-2776, and amendments thereto, or with proceeds of bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-3815a and 19-3815b, and amendments thereto, or any property improved, purchased, constructed, reconstructed or repaired with the proceeds of revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 13-1238 to 13-1245, inclusive, and amendments thereto, or any property improved, reimproved, reconstructed or repaired with the proceeds of revenue bonds issued after July 1, 1963, under the authority of K.S.A. 13-1238 to 13-1245, inclusive, and amendments thereto, which had previously been improved, reconstructed or repaired with the proceeds of revenue bonds issued under such act on or before July 1, 1963, shall be exempt from taxation for so long as any of the revenue bonds issued to finance such construction, reconstruction, improvement, repair or purchase shall be outstanding and unpaid. Any property constructed or purchased with the proceeds of any revenue bonds authorized by K.S.A. 13-1238 to 13-1245, inclusive, and amendments thereto, 19-2776, 19-3815a and 19-3815b, and amendments thereto, issued on or after July 1, 1963, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Any property, all or any portion of which is constructed or purchased with the proceeds of revenue bonds authorized by K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, issued on or after July 1, 1963 and prior to July 1, 1981, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Except as hereinafter provided, any property constructed or purchased wholly with the proceeds of revenue bonds issued on or after July 1, 1981, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Except as hereinafter provided, any property constructed or purchased in part with the proceeds of revenue bonds issued on or after July 1, 1981,

under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation to the extent of the value of that portion of the property financed by the revenue bonds and only for a period of 10 calendar years after the calendar year in which the bonds were issued. The exemption of that portion of the property constructed or purchased with the proceeds of revenue bonds shall terminate upon the failure to pay all taxes levied on that portion of the property which is not exempt and the entire property shall be subject to sale in the manner prescribed by K.S.A. 79-2301 et seq., and amendments thereto. Property constructed or purchased in whole or in part with the proceeds of revenue bonds issued on or after January 1, 1995, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, and used in any retail enterprise identified under NAICS sectors 44 and 45, except facilities used exclusively to house the headquarters or back office operations of such retail enterprises identified thereunder, shall not be exempt from taxation. For the purposes of the preceding provision “NAICS” means the North American industry classification system, as developed under the authority of the office of management and budget of the office of the president of the United States. “Headquarters or back office operations” means a facility from which the enterprise is provided direction, management, administrative services, or distribution or warehousing functions in support of transactions made by the enterprise. Property purchased, constructed, reconstructed, equipped, maintained or repaired with the proceeds of industrial revenue bonds issued under the authority of K.S.A. 12-1740 et seq., and amendments thereto, which is located in a redevelopment project area established under the authority of K.S.A. 12-1770 et seq., and amendments thereto, shall not be exempt from taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, for any poultry confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903, and amendments thereto, shall not be exempt from such taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under the authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, for a rabbit confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903, and amendments thereto, shall not be exempt from such taxation.

*Third.* All works, machinery and fixtures used exclusively by any rural water district or township water district for conveying or production of potable water in such rural water district or township water district, and

all works, machinery and fixtures used exclusively by any entity which performed the functions of a rural water district on and after January 1, 1990, and the works, machinery and equipment of which were exempted hereunder on March 13, 1995.

*Fourth.* All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safekeeping thereof, and for the meeting of fire companies, whether belonging to any rural fire district, township fire district, town, city or village, or to any fire company organized therein or therefor.

*Fifth.* All property, real and personal, owned by county fair associations organized and operating under the provisions of K.S.A. 2-125 et seq., and amendments thereto.

*Sixth.* Property acquired and held by any municipality under the municipal housing law, K.S.A. 17-2337 et seq., and amendments thereto, except that such exemption shall not apply to any portion of the project used by a nondwelling facility for profit making enterprise.

*Seventh.* All property of a municipality, acquired or held under and for the purposes of the urban renewal law, K.S.A. 17-4742 et seq., and amendments thereto, except that such tax exemption shall terminate when the municipality sells, leases or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

*Eighth.* All property acquired and held by the Kansas armory board for armory purposes under the provisions of K.S.A. 48-317, and amendments thereto.

*Ninth.* All property acquired and used by the Kansas turnpike authority under the authority of K.S.A. 68-2001 et seq., and amendments thereto, K.S.A. 68-2030 et seq., and amendments thereto, K.S.A. 68-2051 et seq., and amendments thereto, and K.S.A. 68-2070 et seq., and amendments thereto.

*Tenth.* All property acquired and used for state park purposes by the Kansas department of wildlife, parks and tourism.

*Eleventh.* The state office building constructed under authority of K.S.A. 75-3607 et seq., and amendments thereto, and the site upon which such building is located.

*Twelfth.* All buildings erected under the authority of K.S.A. 76-6a01 et seq., and amendments thereto, and all other student union buildings and student dormitories erected upon the campus of any institution mentioned in K.S.A. 76-6a01, and amendments thereto, by any other non-profit corporation.

*Thirteenth.* All buildings, as the same is defined in subsection (c) of K.S.A. 76-6a13, and amendments thereto, which are erected, constructed or acquired under the authority of K.S.A. 76-6a13 et seq., and amendments thereto, and building sites acquired therefor.

*Fourteenth.* All that portion of the waterworks plant and system of the

city of Kansas City, Missouri, now or hereafter located within the territory of the state of Kansas pursuant to the compact and agreement adopted by K.S.A. 79-205, and amendments thereto.

*Fifteenth.* All property, real and personal, owned by a groundwater management district organized and operating pursuant to K.S.A. 82a-1020, and amendments thereto.

*Sixteenth.* All property, real and personal, owned by the joint water district organized and operating pursuant to K.S.A. 80-1616 et seq., and amendments thereto.

*Seventeenth.* All property, including interests less than fee ownership, acquired for the state of Kansas by the secretary of transportation or a predecessor in interest which is used in the administration, construction, maintenance or operation of the state system of highways, regardless of how or when acquired.

*Eighteenth.* Any building used primarily as an industrial training center for academic or vocational education programs designed for and operated under contract with private industry, and located upon a site owned, leased or being acquired by or for an area vocational school, an area vocational-technical school, a technical college, or a community college, as defined by K.S.A. 72-4412, and amendments thereto, and the site upon which any such building is located.

*Nineteenth.* For all taxable years commencing after December 31, 1997, all buildings of an area vocational school, an area vocational-technical school, a technical college or a community college, as defined by K.S.A. 72-4412, and amendments thereto, which are owned and operated by any such school or college as a student union or dormitory and the site upon which any such building is located.

*Twentieth.* For all taxable years commencing after December 31, 1997, all personal property which is contained within a dormitory that is exempt from property taxation and which is necessary for the accommodation of the students residing therein.

*Twenty-First.* All real property from and after the date of its transfer by the city of Olathe, Kansas, to the Kansas state university foundation, all buildings and improvements thereafter erected and located on such property, and all tangible personal property, which is held, used or operated for educational and research purposes at the Kansas state university Olathe innovation campus located in the city of Olathe, Kansas.

*Twenty-Second.* All real property, and all tangible personal property, owned by postsecondary educational institutions, as that term is defined in K.S.A. 74-3201b, and amendments thereto, or by the board of regents on behalf of the postsecondary educational institutions, which is leased by a for profit company and is actually and regularly used exclusively for research and development purposes so long as any rental income received by such postsecondary educational institution or the board of regents from such a company is used exclusively for educational or scientific pur-

poses. Any such lease or occupancy described in this section shall be for a term of no more than five years.

*Twenty-Third.* For all taxable years commencing after December 31, 2005, any and all housing developments and related improvements located on United States department of defense military installations in the state of Kansas, which are developed pursuant to the military housing privatization initiative, 10 U.S.C. § 2871 et seq., or any successor thereto, and which are provided exclusively or primarily for use by military personnel of the United States and their families.

*Twenty-Fourth.* For all taxable years commencing after December 31, 2012, except as hereinafter provided, any property constructed or purchased in part with the proceeds of revenue bonds issued on or after July 1, 2013, under the authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, shall be exempt from taxation to the extent of the value of that portion of the property financed by the revenue bonds and only for a period of 10 calendar years after the calendar year in which the bonds were issued. The exemption of that portion of the property constructed or purchased with the proceeds of revenue bonds shall terminate upon the failure to pay all taxes levied on that portion of the property which is not exempt and the entire property shall be subject to sale in the manner prescribed by K.S.A. 79-2301 et seq., and amendments thereto. Property constructed or purchased in whole or in part with the proceeds of revenue bonds issued on or after January 1, 1995, under the authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, and used in any retail enterprise identified under NAICS sectors 44 and 45, except facilities used exclusively to house the headquarters or back office operations of such retail enterprises identified thereunder, shall not be exempt from taxation. For the purposes of the preceding provision “NAICS” means the North American industry classification system, as developed under the authority of the office of management and budget of the office of the president of the United States. “Headquarters or back office operations” means a facility from which the enterprise is provided direction, management, administrative services, or distribution or warehousing functions in support of transactions made by the enterprise. Property purchased, constructed, reconstructed, equipped, maintained or repaired with the proceeds of industrial revenue bonds issued under the authority of K.S.A. 12-1740 et seq., and amendments thereto, which is located in a redevelopment project area established under the authority of K.S.A. 12-1770 et seq., and amendments thereto, shall not be exempt from taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, for any poultry confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such

terms are defined by K.S.A. 17-5903, and amendments thereto, shall not be exempt from such taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under the authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, for a rabbit confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903, and amendments thereto, shall not be exempt from such taxation.

*Twenty-Fifth.* For all taxable years commencing after December 31, 2013, any and all utility systems and appurtenances located on United States department of defense military installations in the state of Kansas, which have been acquired after December 31, 2013, pursuant to the military utilities privatization initiative, 10 U.S.C. § 2688 et seq., or any successor thereto, or which have been installed after December 31, 2013, and which are provided exclusively or primarily for use by the military of the United States.

Except as otherwise specifically provided, the provisions of this section shall apply to all taxable years commencing after December 31, 2010.

Sec. 2. K.S.A. 2013 Supp. 79-201a is hereby repealed.

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

Approved April 8, 2014.

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## CHAPTER 39

### SENATE BILL No. 372

AN ACT concerning employment security; relating to the shared work unemployment compensation program; layoff aversion; amending K.S.A. 2013 Supp. 44-757 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 44-757 is hereby amended to read as follows: 44-757. *Shared work unemployment compensation program.* (a) As used in this section:

(1) “Affected unit” means a specified department, shift or other unit of two or more employees that is designated by an employer to participate in a shared work plan.

(2) “Fringe benefit” means health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer.

(3) “Fund” has the meaning ascribed thereto by subsection (k) of K.S.A. 44-703, and amendments thereto.

(4) “Normal weekly hours of work” means the lesser of 40 hours or the average obtained by dividing the total number of hours worked per week during the preceding twelve-week period by the number 12.

(5) “Participating employee” means an employee who works a reduced number of hours under a shared work plan.

(6) “Participating employer” means an employer who has a shared work plan in effect.

(7) “Secretary” means the secretary of labor or the secretary’s designee.

(8) “Shared work benefit” means an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan.

(9) “Shared work plan” means a program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work.

(10) “Shared work unemployment compensation program” means a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

(b) The secretary shall establish a voluntary shared work unemployment compensation program as provided by this section. The secretary may adopt rules and regulations and establish procedures necessary to administer the shared work unemployment compensation program.

(c) An employer who wishes to participate in the shared work unemployment compensation program must submit a written shared work plan to the secretary for the secretary’s approval. As a condition for approval, a participating employer must agree to furnish the secretary with reports relating to the operation of the shared work plan as requested by the secretary. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the secretary and shall report the findings to the secretary.

(d) The secretary may approve a shared work plan if:

(1) The shared work plan applies to and identifies a specific affected unit;

(2) the employees in the affected unit are identified by name and social security number;

(3) the shared work plan reduces the normal weekly hours of work for an employee, *including regular part-time employees*, in the affected unit by not less than 20% and not more than 40%;

(4) the shared work plan applies to at least 10% of the employees in the affected unit;

(5) the shared work plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit and *the employer certifies that if the employer provides health benefits and retirement benefits under a defined benefit plan, as defined in 26 U.S.C. § 414(j), or contributions under a defined contribution plan, as defined in 26 U.S.C. § 414(i), to any employee whose workweek is reduced under the program that such benefits will continue to be provided to employees participating in the shared work compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the shared work program;*

(6) the employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of ~~temporary~~ layoffs that would affect at least 10% of the employees in the affected unit and that would result in an equivalent reduction in work hours;

(7) the employer has filed all reports required to be filed under the employment security law for all past and current periods and has paid all contributions, benefit cost payments, or if a reimbursing employer has made all payments in lieu of contributions due for all past and current periods; ~~and~~

(8) (A) a contributing employer must be eligible for a rate computation under subsection (a)(2) of K.S.A. 44-710a, and amendments thereto, and is not a negative account employer as defined by subsection (d) of K.S.A. 44-710a, and amendments thereto; (B) a rated governmental employer must be eligible for a rate computation under subsection (g) of K.S.A. 44-710d, and amendments thereto;

(9) *eligible employees may participate, as appropriate, in training, including without limitation, employer-sponsored training or worker training funded under the workforce investment act of 1998, to enhance job skills if such program has been approved by the state of Kansas;*

(10) *the employer includes a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced together with an estimate of the number of layoffs that would have occurred absent the ability to participate in shared work compensation and such other information as the secretary of labor determines is appropriate; and*

(11) *the terms of the employer's written plan and implementation are consistent with employer obligations under applicable federal and Kansas laws.*

(e) If any of the employees who participate in a shared work plan under this section are covered by a collective bargaining agreement, the shared work plan must be approved in writing by the collective bargaining agent.

(f) A shared work plan may not be implemented to subsidize seasonal employers during the off-season ~~or to subsidize employers who have traditionally used part-time employees.~~

(g) The secretary shall approve or deny a shared work plan no later than the 30<sup>th</sup> day after the day the shared work plan is received by the secretary. The secretary shall approve or deny a shared work plan in writing. If the secretary denies a shared work plan, the secretary shall notify the employer of the reasons for the denial.

(h) A shared work plan is effective on the date it is approved by the secretary, except for good cause a shared work plan may be effective at any time within a period of 14 days prior to the date such plan is approved by the secretary. The shared work plan expires on the last day of the 12<sup>th</sup> full calendar month after the effective date of the shared work plan.

(i) An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the shared work plan as approved by the secretary. The employer must report the changes made to the shared work plan in writing to the secretary before implementing the changes. If the original shared work plan is substantially modified, the secretary shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under subsection (d). The approval of a modified shared work plan does not affect the expiration date originally set for that shared work plan. If substantial modifications cause the shared work plan to fail to meet the requirements for approval, the secretary shall deny approval to the modifications as provided by subsection (g).

(j) Notwithstanding any other provisions of the employment security law, an individual is unemployed and is eligible for shared work benefits in any week in which the individual, as an employee in an affected unit, works for less than the individual's normal weekly hours of work in accordance with an approved shared work plan in effect for that week. The secretary may not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of the employment security law that relates to availability for work, active search for work or refusal to apply for or accept work with an employer other than the participating employer.

(k) An individual is eligible to receive shared work benefits with respect to any week in which the secretary finds that:

(1) The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;

(2) the individual is able to work and is available for additional hours of work or full-time work with the participating employer;

(3) the individual's normal weekly hours of work have been reduced by at least 20% but not more than 40%, with a corresponding reduction in wages; and

(4) the individual's normal weekly hours of work and wages have been reduced as described in ~~paragraph (3) of this subsection~~ (k)(3) for a wait-

ing period of one week which occurs within the period the shared work plan is in effect, which period includes the week for which the individual is claiming shared work benefits.

(l) The secretary shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of reduction of the individual's hours as set forth in the employer's shared work plan. If the shared benefit amount is not a multiple of \$1, the secretary shall reduce the amount to the next lowest multiple of \$1. All shared work benefits under this section shall be payable from the fund.

~~(m) The secretary may not pay an individual shared work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared work plan.~~

~~(n)~~—An individual may not receive shared work benefits and regular unemployment compensation benefits in an amount that exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided by subsection (f) of K.S.A. 44-704, and amendments thereto.

~~(o)~~(n) An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under K.S.A. 44-704a and 44-704b, and amendments thereto, and is entitled to receive extended benefits under such statutes if the individual is otherwise eligible under such statutes.

~~(p)~~(o) The secretary may terminate a shared work plan for good cause if the secretary determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program.

~~(q)~~(p) Notwithstanding any other provisions of this section, an individual shall not be eligible to receive shared work benefits for more than 26 calendar weeks during the 12-month period of the shared work plan, except that two weeks of additional benefits shall be payable to claimants who exhaust regular benefits and any benefits under any other federal or state extended benefits program during the period July 1, 2003 through June 30, 2004. No week shall be counted as a week for which an individual is eligible for shared work benefits for the purposes of this section unless the week occurs within the 12-month period of the shared work plan.

~~(r)~~(q) No shared work benefit payment shall be made under any shared work plan or this section for any week which commences before April 1, 1989.

~~(s)~~(r) This section shall be construed as part of the employment security law.

Sec. 2. K.S.A. 2013 Supp. 44-757 is hereby repealed.

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

Approved April 9, 2014.

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## CHAPTER 40

### HOUSE BILL No. 2398

AN ACT concerning limited liability companies; concerning the Kansas revised limited liability company act; amending K.S.A. 17-7662, 17-7664, 17-7666, 17-7668, 17-7670, 17-7671, 17-7672, 17-7673, 17-7674, 17-7676, 17-7677, 17-7679, 17-7680, 17-7683, 17-7686, 17-7687, 17-7688, 17-7689, 17-7690, 17-7691, 17-7693, 17-7695, 17-7697, 17-7698, 17-76,100, 17-76,103, 17-76,104, 17-76,105, 17-76,106, 17-76,107, 17-76,110, 17-76,112, 17-76,113, 17-76,114, 17-76,115, 17-76,116, 17-76,117, 17-76,118, 17-76,119, 17-76,121, 17-76,121a, 17-76,122, 17-76,123, 17-76,124, 17-76,125, 17-76,126, 17-76,127, 17-76,128, 17-76,130, 17-76,131, 17-76,133, 17-76,134, 17-76,136, 17-76,137, 17-76,139 and 17-76,140 and K.S.A. 2013 Supp. 17-7663, 17-7675, 17-7678, 17-7681, 17-7682, 17-76,143, 84-9-406 and 84-9-408 and repealing the existing sections.

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

Section 1. K.S.A. 17-7662 is hereby amended to read as follows: 17-7662. ~~This act—~~K.S.A. 17-7662 through 17-76,143, and amendments thereto, and sections 63 through 65, and amendments thereto, shall be known and may be cited as the Kansas revised limited liability company act.

Sec. 2. K.S.A. 2013 Supp. 17-7663 is hereby amended to read as follows: 17-7663. As used in this act unless the context otherwise requires:

(a) “Articles of organization” means the articles of organization referred to in K.S.A. 17-7673, and amendments thereto, and the articles of *organization* as amended.

(b) “Bankruptcy” means an event that causes a person to cease to be a member as provided in K.S.A. 17-7689, and amendments thereto.

(c) “Contribution” means any cash, property, services rendered or a promissory note or other obligation to contribute cash or property or to perform services, which a person contributes to a limited liability company in such person’s capacity as a member.

(d) “Foreign limited liability company” means a limited liability company formed under the laws of any state or under the laws of any foreign country or other foreign jurisdiction and denominated as such under the laws of such state or foreign country or other foreign jurisdiction.

(e) “Knowledge” means a person’s actual knowledge of a fact, rather than the person’s constructive knowledge of the fact.

(f) “Limited liability company” and “domestic limited liability com-

pany” means a limited liability company formed under the laws of the state of Kansas and having one or more members.

(g) *“Limited liability company interest” means a member’s share of the profits and losses of a limited liability company and a member’s right to receive distributions of the limited liability company’s assets.*

(h) *“Liquidating trustee” means a person carrying out the winding up of a limited liability company.*

(i) *“Manager” means a person who is named as a manager of a limited liability company in, or designated as a manager of a limited liability company pursuant to, an operating agreement or similar instrument under which the limited liability company is formed.*

(j) *“Member” means a person who is admitted to a limited liability company as a member as provided in K.S.A. 17-7686, and amendments thereto, or, in the case of a foreign limited liability company, in accordance with the laws of the state or foreign country or other foreign jurisdiction under which the foreign limited liability company is formed.*

~~(g)~~(k) *“Operating agreement” means any agreement, ~~written or~~ whether referred to as an operating agreement, limited liability company agreement or otherwise, written, oral, or implied, of the member or members as to the affairs of a limited liability company and the conduct of its business. A member or manager of a limited liability company or an assignee of a limited liability company interest is bound by the operating agreement whether or not the member or manager or assignee executes the operating agreement. A limited liability company is not required to execute its operating agreement. A limited liability company is bound by its operating agreement whether or not the limited liability company executes the operating agreement. An operating agreement of a limited liability company having only one member shall not be unenforceable by reason of there being only one person who is a party to the operating agreement. An operating agreement is not subject to any statute of frauds, including K.S.A. 33-106, and amendments thereto. An operating agreement may provide rights to any person, including a person who is not a party to the operating agreement, to the extent set forth therein. A written operating agreement or another written agreement or writing:*

(1) *May provide that a person shall be admitted as a member of a limited liability company, or shall become an assignee of a limited liability company interest or other rights or powers of a member to the extent assigned, and shall become bound by the operating agreement:*

(A) *If such person, or a representative authorized by such person orally, in writing or by other action such as payment for a limited liability company interest, executes the operating agreement or any other writing evidencing the intent of such person to become a member or assignee; or*

(B) *without such execution, if such person, or a representative authorized by such person orally, in writing or by other action such as pay-*

ment for a limited liability company interest, complies with the conditions for becoming a member or assignee as set forth in the operating agreement or any other writing and requests, orally, in writing or by other action such as payment for a limited liability company interest, that the records of the limited liability company reflect such admission or assignment; and

(2) shall not be unenforceable by reason of its not having been signed by a person being admitted as a member or becoming an assignee as provided in subparagraph (a) of this paragraph subsection (k)(1), or by reason of its having been signed by a representative as provided in this act.

~~(h) “Limited liability company interest” means a member’s share of the profits and losses of a limited liability company and a member’s right to receive distributions of the limited liability company’s assets.~~

~~(i) “Liquidating trustee” means a person carrying out the winding up of a limited liability company.~~

~~(j) “Majority in interest” means the affirmative vote or consent of the members who own more than 50% of the then current percentage or other interest in the profits of the limited liability company owned by all members entitled to vote thereon or the members in each class or group entitled to vote thereon as appropriate.~~

~~(k) “Manager” means a person who is named as a manager of a limited liability company in, or designated as a manager of, a limited liability company pursuant to an operating agreement or similar instrument under which the limited liability company is formed.~~

~~(l) “Member” means a person who has been admitted to a limited liability company as a member as provided in K.S.A. 17-7686, and amendments thereto, or, in the case of a foreign limited liability company, in accordance with the laws of the state or foreign country or other foreign jurisdiction under which the foreign limited liability company is organized.~~

~~(m)(l) “Person” means a natural person, partnership, whether general or limited and whether domestic or foreign, limited liability company, foreign limited liability company, trust, including a common law trust, business trust, statutory trust, voting trust or any other form of trust, estate, association, including any group, organization, co-tenancy, plan, board, council or committee, corporation, government, including a country, state, county or any other governmental subdivision, agency or instrumentality, custodian, nominee or any other individual or entity, or series thereof, in its own or any representative capacity, in each case, whether domestic or foreign.~~

~~(n)(m) “Personal representative” means, as to a natural person, the executor, administrator, guardian, conservator or other legal representative thereof and, as to a person other than a natural person, the legal representative or successor thereof.~~

~~(e)~~(n) “State” means the District of Columbia or the commonwealth of Puerto Rico or any state, territory, possession or other jurisdiction of the United States other than the state of Kansas.

Sec. 3. K.S.A. 17-7664 is hereby amended to read as follows: 17-7664. The name of each limited liability company as set forth in its articles of organization:

(a) Shall contain the words “limited liability company” or “limited company,” or the abbreviation “~~LLC,~~” “~~LC~~” “*L.L.C.*,” “*L.C.*” or the designation “LLC” or “LC”;

(b) may contain the name of a member or manager;

(c) must be such as to distinguish it upon the records with the secretary of state from the name *on such records* of any corporation, *partnership*, limited partnership, business trust, ~~registered limited liability partnership~~ or limited liability company reserved, registered, formed or organized under the laws of the state of Kansas or qualified to do business or registered as a foreign corporation, foreign limited partnership, *foreign business trust*, *foreign partnership* or foreign limited liability company in the state of Kansas; ~~provided however,~~ *except* that a limited liability company may register under any name which is not such as to distinguish it upon the records with the secretary of state from the name *on such records* of any domestic or foreign corporation, *partnership*, limited partnership, business trust, ~~registered limited liability partnership~~ or limited liability company reserved, registered, formed ~~or~~, organized *or qualified to do business* under the laws of the state of Kansas with the written consent of the other *domestic or foreign* corporation, *partnership*, limited partnership, business trust, ~~registered limited liability partnership~~ or limited liability company, which written consent shall be filed with the secretary of state; and

(d) may contain the following words: “company,” “association,” “club,” “foundation,” “fund,” “institute,” “society,” “union,” “syndicate,” “limited” or “trust” (or abbreviations of like import).

Sec. 4. K.S.A. 17-7666 is hereby amended to read as follows: 17-7666.

(a) Each limited liability company shall have and maintain in the state of Kansas:

(1) A registered office, which may but need not be a place of its business in the state of Kansas; and

(2) a resident agent for service of process on the limited liability company, which agent may be either an individual resident of the state of Kansas whose business office is identical with the limited liability company’s registered office, or a domestic corporation, or a domestic limited partnership, or a domestic limited liability company, or a domestic business trust or a foreign corporation, or a foreign limited partnership, or a foreign limited liability company, or foreign business trust authorized to do business in the state of Kansas having a business office identical with

such registered office, which is generally open during normal business hours to accept service of process and otherwise perform the functions of a resident agent, or the limited liability company itself.

(b) A resident agent may change the address of the registered office of the limited liability company or companies for which such resident agent is resident agent to another address in the state of Kansas by paying a fee as set forth in K.S.A. 17-76,136, and amendments thereto, and filing with the secretary of state a certificate, executed by such resident agent, setting forth the names of all the limited liability companies represented by such resident agent, and the address at which such resident agent has maintained the registered office for each of such limited liability companies, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such resident agent will thereafter maintain the registered office for each of the limited liability companies recited in the certificate. Upon the filing of such certificate, the secretary of state shall furnish to the resident agent a certified copy of the same under the secretary's hand and seal of office, and thereafter, or until further change of address, as authorized by law, the registered office in the state of Kansas of each of the limited liability companies recited in the certificate shall be located at the new address of the resident agent thereof as given in the certificate. In the event of a change of name of any person acting as a resident agent of a limited liability company, such resident agent shall file with the secretary of state a certificate, executed by such resident agent, setting forth the new name of such resident agent, the name of such resident agent before it was changed, the names of all the limited liability companies represented by such resident agent, and the address at which such resident agent has maintained the registered office for each of such limited liability companies, and shall pay a fee as set forth in K.S.A. 17-76,136, and amendments thereto. Upon the filing of such certificate, the secretary of state shall furnish to the resident agent a certified copy of the certificate under hand and seal of office. Filing a certificate under this section shall be deemed to be an amendment of the articles of organization of each limited liability company affected thereby and each such limited liability company shall not be required to take any further action with respect thereto, to amend its articles of organization under K.S.A. ~~17-76,136-17-7674~~, and amendments thereto. Any resident agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each limited liability company affected thereby.

(c) The resident agent of one or more limited liability companies may resign and appoint a successor resident agent by paying a fee as set forth in K.S.A. 17-76,136, and amendments thereto, and filing a certificate with the secretary of state, stating that the resident agent resigns and the name and address of the successor resident agent. There shall be attached to such certificate a statement executed by each affected limited liability

company ratifying and approving such change of resident agent. Upon such filing, the successor resident agent shall become the resident agent of such limited liability companies as have ratified and approved such substitution and the successor resident agent's address, as stated in such certificate, shall become the address of each such limited liability company's registered office in the state of Kansas. The secretary of state shall furnish to the successor resident agent a certified copy of the certificate of resignation. Filing of such certificate of resignation shall be deemed to be an amendment of the articles of organization of each limited liability company affected thereby and each such limited liability company shall not be required to take any further action with respect thereto, to amend its articles of organization under K.S.A. ~~17-76,136~~ 17-7674, and amendments thereto.

(d) The resident agent of a limited liability company may resign without appointing a successor resident agent by paying a fee as set forth in K.S.A. 17-76,136, and amendments thereto, and filing a certificate with the secretary of state stating that the resident agent resigns as resident agent for the limited liability company identified in the certificate, but such resignation shall not become effective until 60 days after the certificate is filed. There shall be attached to said certificate an affidavit of such resident agent, if an individual, or the president, a vice-president or the secretary thereof if a corporation, that at least 30 days prior to and on or about the date of the filing of such certificate, notices were sent by certified or registered mail to the limited liability company for which such resident agent is resigning as resident agent, at the principal office thereof within or outside the state of Kansas, if known to such resident agent or, if not, to the last known address of the attorney or other individual at whose request such resident agent was appointed for such limited liability company, of the resignation of such resident agent. After receipt of the notice of the resignation of its resident agent, the limited liability company for which such resident agent was acting shall obtain and designate a new resident agent, to take the place of the resident agent so resigning. If such limited liability company fails to obtain and designate a new resident agent as aforesaid prior to the expiration of the period of 60 days after the filing by the resident agent of the certificate of resignation, the articles of organization of such limited liability company shall be deemed to be canceled. After the resignation of the resident agent shall have become effective as provided in this section and if no new resident agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against the limited liability company for which the resigned resident agent had been acting shall thereafter be upon the secretary of state in accordance with K.S.A. ~~17-76,136~~ 60-304, and amendments thereto.

(e) If a domestic limited liability company's resident agent dies or moves from the registered office, the limited liability company shall des-

ignate and certify to the secretary of state the name of another resident agent within 30 days of the death or move. If no new resident agent is designated, the service of legal process on the limited liability company may be made as prescribed in K.S.A. 60-304, and amendments thereto. If any domestic limited liability company fails to designate a new resident agent as required by this subsection, the secretary of state, after giving 30 days' notice of the intended action, may declare the articles of organization canceled.

Sec. 5. K.S.A. 17-7668 is hereby amended to read as follows: 17-7668.

(a) Unless otherwise specifically prohibited by law, a limited liability company may carry on any lawful business, purpose or activity, whether or not for profit with the exception of the business of granting policies of insurance, or assuming insurance risks or banking as defined in K.S.A. 9-702, and amendments thereto.

(b) A limited liability company shall possess and may exercise all the powers and privileges granted by this act or by any other law or by its operating agreement, together with any powers incidental thereto, ~~so far as~~ ~~as~~ including such powers and privileges as are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the limited liability company.

(c) A limited liability company organized and existing under the Kansas *revised* limited liability company act or otherwise qualified to do business in Kansas may have and exercise all powers which may be exercised by a Kansas professional association or professional corporation under the professional corporation law of Kansas, including employment of professionals to practice a profession, which shall be limited to the practice of one profession, except as provided in K.S.A. 17-2710, and amendments thereto.

(d) Only a qualified person may be a member of a limited liability company organized to exercise powers of a professional association or professional corporation. No membership may be transferred to another person until there is presented to such limited liability company a certificate by the licensing body, as defined in K.S.A. 74-146, and amendments thereto, stating that the person to whom the transfer is made or the membership issued is duly licensed to render the same type of professional services as that for which the limited liability company was organized.

(e) As used in the section, "qualified person" means:

(1) Any natural person licensed to practice the same type of profession which any professional *association or professional* corporation is authorized to practice;

(2) the trustee of a trust which is a qualified trust under subsection (a) of section 401 of the federal internal revenue code of 1986, as in effect, on July 1, 1999, or of a contribution plan which is a qualified employee

stock ownership plan under subsection (a) of section 409A of the federal internal revenue code of 1986, as in effect, on July 1, 1999;

(3) the trustee of a revocable living trust established by a natural person who is licensed to practice the type of profession which any professional *association or professional* corporation is authorized to practice, if the terms of such trust provide that such natural person is the principal beneficiary and sole trustee of such trust and such trust does not continue to hold title to membership in the limited liability company following such natural person's death for more than a reasonable period of time necessary to dispose of such membership; ~~or~~

(4) a Kansas professional corporation or foreign professional corporation in which at least one member or shareholder is authorized by a licensing body, as defined in K.S.A. 74-146, and amendments thereto, to render in this state a professional service permitted by the articles of organization; or

(5) a general partnership or limited liability company, if all partners or members thereof are authorized to render the professional services permitted by the articles of organization of the ~~issuing~~ limited liability company formed pursuant to this section and in which at least one partner or member is authorized by a licensing authority of this state to render in this state the professional services permitted by the articles of organization of the limited liability company.

(f) Nothing in this act shall restrict or limit in any manner the authority and duty of any licensing body, as defined in K.S.A. 74-146, and amendments thereto, for the licensing of individual persons rendering a professional service or the practice of the profession which is within the jurisdiction of the licensing body, notwithstanding that the person is an officer, manager, member or employee of a limited liability company organized to exercise powers of a professional association or *professional* corporation. Each licensing body may adopt rules and regulations governing the practice of each profession as are necessary to enforce and comply with this act and the law applicable to each profession.

(g) A licensing body, as defined in K.S.A. 74-146, and amendments thereto, the attorney general or district or county attorney may bring an action in the name of the state of Kansas in quo warranto or injunction against a limited liability company engaging in the practice of a profession ~~with~~ *without* complying with the provisions of this act.

~~(h) A limited liability company organized to exercise powers of a professional association or professional corporation under the Kansas limited liability company act prior to July 1, 1999, shall file with the secretary of state at the time of making an annual report for the calendar year 1999 a certificate by the licensing body, as defined in K.S.A. 74-146, and amendments thereto, of the profession involved that each of the members is duly licensed to practice that profession, and that the proposed company name has been approved. Notwithstanding any provision of this act~~

*to the contrary, without limiting the general powers enumerated in subsection (b), a limited liability company shall, subject to such standards and restrictions, if any, as are set forth in its operating agreement, have the power and authority to make contracts of guaranty and suretyship and enter into interest rate, basis, currency, hedge or other swap agreements or cap, floor, put, call, option, exchange or collar agreements, derivative agreements, or other agreements similar to any of the foregoing.*

*(i) Unless otherwise provided in an operating agreement, a limited liability company has the power and authority to grant, hold or exercise a power of attorney, including an irrevocable power of attorney.*

Sec. 6. K.S.A. 17-7670 is hereby amended to read as follows: 17-7670.

(a) Subject to such standards and restrictions, if any, as are set forth in its operating agreement, a limited liability company may, and shall have the power to, indemnify and hold harmless any member or manager or other person from and against any and all claims and demands whatsoever.

(b) To the extent that a *present or former* member, manager, officer, employee or agent of a limited liability company has been successful on the merits or otherwise ~~or the defenses of any action, suits or proceeding, or in defense of any issue or matter therein, such director, officer, employee or agent~~ as a plaintiff in an action to determine that the plaintiff is a member of a limited liability company or in defense of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a member, manager, officer, employee or agent of the limited liability company, or is or was serving at the request of the limited liability company as a member, manager, director, officer, employee or agent of another limited liability company, corporation, partnership, joint venture, trust or other enterprise, or in defense of any claim, issue or matter therein, such member, manager, officer, employee or agent shall be indemnified by the limited liability company against expenses actually and reasonably incurred by such person in connection therewith, including attorney fees.

Sec. 7. K.S.A. 17-7671 is hereby amended to read as follows: 17-7671.

(a) Upon application of any member or manager, *as defined in subsection (c)*, the district court may hear and determine the validity of any admission, election, appointment, removal or resignation of a manager of a limited liability company, and the right of any person to become or continue to be a manager of a limited liability company, and, in case the right to serve as a manager is claimed by more than one person, may determine the person or persons entitled to serve as managers; and to that end make such order or decree in any such case as may be just and proper, with power to enforce the production of any books, papers and records of the limited liability company relating to the issue. In any such application,

the limited liability company shall be named as a party, and service of copies of the application upon the resident agent of the limited liability company shall be deemed to be service upon the limited liability company and upon the person or persons whose right to serve as a manager is contested and upon the person or persons, if any, claiming to be a manager or claiming the right to be a manager; and the resident agent shall forward immediately a copy of the application to the limited liability company and to the person or persons whose right to serve as a manager is contested and to the person or persons, if any, claiming to be a manager or the right to be a manager, in a postpaid, sealed, registered letter addressed to such limited liability company and such person or persons at their post-office addresses last known to the resident agent or furnished to the resident agent by the applicant member or manager. The court may make such order respecting further or other notice of such application as it deems proper under these circumstances.

(b) Upon application of any member or manager, the district court may hear and determine the result of any vote of members or managers upon matters as to which the members or managers of the limited liability company, or any class or group of members or managers, have the right to vote pursuant to the operating agreement or other agreement or this act~~(, other than the admission, election, appointment, removal or resignation of managers)~~. In any such application, the limited liability company shall be named as a party, and service of the application upon the resident agent of the limited liability company shall be deemed to be service upon the limited liability company, and no other party need be joined in order for the court to adjudicate the result of the vote. The court may make such order respecting further or other notice of such application as it deems proper under these circumstances.

(c) *As used in this section, the term “manager” refers to a person:*

(1) *Who is a manager as defined in subsection (i) of K.S.A. 17-7663, and amendments thereto; and*

(2) *whether or not a member of a limited liability company, who, although not a manager as defined in subsection (i) of K.S.A. 17-7663, and amendments thereto, participates materially in the management of the limited liability company, except that the power to elect or otherwise select or to participate in the election or selection of a person to be a manager as defined in subsection (i) of K.S.A. 17-7663, and amendments thereto, shall not, by itself, constitute participation in the management of the limited liability company.*

~~(c)~~(d) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents.

Sec. 8. K.S.A. 17-7672 is hereby amended to read as follows: 17-7672.

(a) Any action to interpret, apply or enforce the provisions of an operating agreement, or the duties, obligations or liabilities of a limited liability company to the members or managers of the limited liability company, or the duties, obligations or liabilities among members or managers and of members or managers to the limited liability company, or the rights or powers of, or restrictions on, the limited liability company, members or managers, *or any provision of this act, or any other instrument, document, agreement, articles of organization or certificate contemplated by any provision of this act*, may be brought in the district court.

(b) *As used in this section, the term "manager" refers to a person:*

(1) *Who is a manager as defined in subsection (i) of K.S.A. 17-7663, and amendments thereto; and*

(2) *whether or not a member of a limited liability company, who, although not a manager as defined in subsection (i) of K.S.A. 17-7663, and amendments thereto, participates materially in the management of the limited liability company, except that the power to elect or otherwise select or to participate in the election or selection of a person to be a manager as defined in subsection (i) of K.S.A. 17-7663, and amendments thereto, shall not, by itself, constitute participation in the management of the limited liability company.*

Sec. 9. K.S.A. 17-7673 is hereby amended to read as follows: 17-7673.

(a) In order to form a limited liability company, *one or more authorized persons must execute* articles of organization. *The articles of organization shall be filed with the secretary of state and set forth:*

(1) The name of the limited liability company;

(2) the address of the registered office and the name and address of the resident agent for service of process required to be maintained by K.S.A. 17-7666, and amendments thereto;

(3) any other matters the members determine to include therein; ~~and~~

(4) if the limited liability company is organized to exercise the powers of a professional association or *professional* corporation, each such profession shall be stated; *and*

(5) *if the limited liability company will have series, the matters required by K.S.A. 17-76,143, and amendments thereto.*

(b) A limited liability company is formed at the time of the filing of the initial articles of organization with the secretary of state or at any later date or time specified in the articles of organization which is not later than 90 days after the date of filing, if, in either case, there has been substantial compliance with the requirements of this section. A limited liability company formed under this act shall be a separate legal entity, the existence of which as a separate legal entity shall continue until cancellation of the limited liability company's articles of organization.

(c) An operating agreement ~~may~~ *shall* be entered into *or otherwise existing* either before, after or at the time of the filing of the articles of

organization and, whether entered into *or otherwise existing* before, after or at the time of such filing, may be made effective as of the ~~formation of the limited liability company~~ *effective time of such filing* or at such other time or date as provided in *or reflected by* the operating agreement.

Sec. 10. K.S.A. 17-7674 is hereby amended to read as follows: 17-7674. (a) Articles of organization are amended by filing a certificate of amendment thereto with the secretary of state. The certificate of amendment shall set forth:

- (1) The name of the limited liability company; and
- (2) the amendment to the articles of organization.

(b) A manager or, if there is no manager, then any member who becomes aware that any statement in the articles of organization was false *in any material respect* when made, or that any matter described has changed making the articles of organization false in any material respect, shall promptly amend the articles of organization.

(c) Articles of organization may be amended at any time for any other proper purpose.

(d) Unless otherwise provided in this act or unless a later effective date or time ~~is~~, which shall be a date or time certain within 90 days of the date of filing, is provided for in the certificate of amendment, a certificate of amendment shall be effective at the time of its filing with the secretary of state.

Sec. 11. K.S.A. 2013 Supp. 17-7675 is hereby amended to read as follows: 17-7675. (a) Articles of organization shall be canceled upon the dissolution and the completion of winding up of a limited liability company, or as provided in subsection (d) *or (e)* of K.S.A. 17-7666, and amendments thereto, or K.S.A. 17-76,139, and amendments thereto, or upon the filing of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation *or upon the future effective date of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation*. A certificate of cancellation shall be filed with the secretary of state to accomplish the cancellation of articles of organization upon the dissolution and the completion of winding up of a limited liability company. The certificate shall set forth:

- ~~(a)~~(1) The name of the limited liability company;
- ~~(b)~~(2) the reason for filing the certificate of cancellation;
- ~~(c)~~(3) the future effective date or time, which shall be a date or time certain not later than 90 days after the date of filing, of cancellation if it is not to be effective upon the filing of the certificate; and
- ~~(d)~~(4) any other information the person filing the certificate of cancellation determines.

(b) *A certificate of cancellation that is filed with the secretary of state prior to the dissolution or the completion of winding up of a limited li-*

*bility company may be corrected as an erroneously executed certificate of cancellation by filing with the secretary of state a certificate of correction of such certificate of cancellation in accordance with K.S.A. 17-7683, and amendments thereto.*

(c) *The secretary of state shall not issue a certificate of good standing with respect to a limited liability company if its articles of organization are canceled.*

Sec. 12. K.S.A. 17-7676 is hereby amended to read as follows: 17-7676. (a) ~~Each of~~ *The articles or any of organization and each certificate required by this act K.S.A. 17-7673 through 17-7683, and amendments thereto, to be filed with the secretary of state shall be executed by one or more authorized persons.*

(b) ~~Unless otherwise provided in an operating agreement, any person may sign the articles; of organization or any certificate, or any amendment thereof, or enter into an operating agreement or amendment thereof by an agent, including an attorney-in-fact. An authorization, including a power of attorney, to sign any articles; of organization or any certificate, or any amendments amendment thereof, or to enter into an operating agreement or amendment thereof need not be in writing, need not be sworn to, verified or acknowledged, and need not be filed with the secretary of state, but if in writing, must be retained by the limited liability company.~~

(c) *For all purposes of the laws of the state of Kansas, a power of attorney with respect to matters relating to the organization, internal affairs or termination of a limited liability company or granted by a person as a member or assignee of a limited liability company interest or by a person seeking to become a member or an assignee of a limited liability company interest shall be irrevocable if it states that it is irrevocable and it is coupled with an interest sufficient in law to support an irrevocable power. Such irrevocable power of attorney, unless otherwise provided therein, shall not be affected by subsequent death, disability, incapacity, dissolution, termination of existence or bankruptcy of, or any other event concerning, the principal. A power of attorney with respect to matters relating to the organization, internal affairs or termination of a limited liability company or granted by a person as a member or an assignee of a limited liability company interest or by a person seeking to become a member or an assignee of a limited liability company interest and, in either case, granted to the limited liability company, a manager or member thereof, or any of their respective officers, directors, managers, members, partners, trustees, employees or agents shall be deemed coupled with an interest sufficient in law to support an irrevocable power.*

(d) ~~The execution of articles of organization or a certificate by an authorized~~ *a person who is authorized by this act to execute such articles of organization or certificate, upon filing such articles of organization or*

*certificate with the secretary of state*, constitutes an oath or affirmation, under the penalties of perjury that, to the best of ~~the authorized~~ *such* person's knowledge and belief, the facts stated therein are true.

Sec. 13. K.S.A. 17-7677 is hereby amended to read as follows: 17-7677. (a) If a person required to execute *articles of organization or a certificate* required by ~~this act~~ *K.S.A. 17-7673 through 17-7683, and amendments thereto*, fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the district court to direct the execution of the *articles of organization or certificate*. If the court finds that the execution of the *articles of organization or certificate* is proper and that any person so designated has failed or refused to execute the *articles of organization or certificate*, it shall order the secretary of state to record ~~an~~ *appropriate articles of organization or a certificate*.

(b) If a person required to execute an operating agreement or amendment thereof fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the district court to direct the execution of the operating agreement or amendment thereof. If the court finds that the operating agreement or amendment thereof should be executed and that any person required to execute the operating agreement or amendment thereof has failed or refused to do so, it shall enter an order granting appropriate relief.

Sec. 14. K.S.A. 2013 Supp. 17-7678 is hereby amended to read as follows: 17-7678. (a) The original signed copy of articles of organization or any certificate to be filed pursuant to this act, shall be filed with the secretary of state, where the instrument shall be recorded in an electronic medium. A person who executes *articles of organization, a certificate, or a statement or articles* as an agent or fiduciary shall not be required to exhibit evidence of the person's authority as a prerequisite to filing. Any signature on any *articles of organization or certificate* authorized to be filed with the secretary of state under any provision of this act may be a facsimile, a conformed signature or an electronically transmitted signature. Unless the secretary of state finds that any filing does not conform to law, upon receipt of all filing fees required by law, the secretary of state shall:

(1) Certify that such document has been filed in the secretary of state's office by endorsing upon the electronically-recorded document the word "filed" and the date and hour of the filing; in the absence of actual fraud, this endorsement is conclusive of the date and time of its filing;

(2) record the endorsed document in an electronic medium and that electronic document shall become the original document; and

(3) return a copy of the recorded document, to the person who filed it or such person's representative.

(b) The articles of organization shall be amended as provided in a certificate of amendment or judicial decree of amendment upon the filing

of the certificate of amendment or judicial decree of amendment with the secretary of state or upon the future effective date specified in the certificate of amendment. An inaccuracy in the articles of organization may be corrected by filing a certificate of correction with the secretary of state as provided in K.S.A. 17-7683, and amendments thereto. The articles of organization are canceled upon the ~~issuance of filing with the secretary of state~~ of a certificate of cancellation or certificate of merger or consolidation where the limited liability company is not the surviving or resulting entity ~~by the secretary of state or upon the future effective date of the certificate of cancellation or certificate of merger or consolidation.~~

(c) The fee required by this act shall be paid at the time of the filing of any articles of organization or any certificate to be filed pursuant to this act.

(d) The fee required by this act shall be paid for a certified copy of any paper on file pursuant to this act and the fee fixed pursuant to this act shall be paid for each page copied.

(e) The secretary of state may prescribe a telefacsimile communication fee in addition to any filing fees to cover the cost of such services. This fee must be paid prior to acceptance of a telefacsimile communication and shall be deposited into the information and copy service fee fund.

(f) Upon filing the articles of organization of a limited liability company organized to exercise powers of a professional association or professional corporation, the limited liability company shall file with the secretary of state a certificate by the licensing body, as defined in K.S.A. 74-146, and amendments thereto, of the profession involved that each of the members is duly licensed to practice that profession, and that the proposed company name has been approved.

Sec. 15. K.S.A. 17-7679 is hereby amended to read as follows: 17-7679. The fact that articles of organization, or amendments thereto, ~~of a limited liability company~~ are on file with the secretary of state is notice that the entity formed in connection with the filing of the articles of organization is a limited liability company formed under the laws of the state of Kansas and is notice ~~for all purposes with respect to all matters required to be set forth therein~~ of all other facts set forth therein which are required to be set forth in articles of organization by subsections (a)(1), (a)(2), (a)(4) and (a)(5) of K.S.A. 17-7673, and amendments thereto.

Sec. 16. K.S.A. 17-7680 is hereby amended to read as follows: 17-7680. (a) A limited liability company *may*, whenever desired, ~~may~~ integrate into a single instrument all of the provisions of its articles of organization which are then in effect and operative as a result of there having previously been filed with the secretary of state one or more certificates or other instruments pursuant to ~~this act~~ K.S.A. 17-7673 through 17-7683,

*and amendments thereto*, and it may at the same time also further amend its articles of organization by adopting restated articles of organization.

(b) ~~If the restated articles of organization merely restate and integrate but do not further amend the initial articles of organization, as previously amended or supplemented by any certificate or instrument that was executed and filed pursuant to this act K.S.A. 17-7673 through 17-7683, and amendments thereto, they shall be specifically designated in their heading as “restated articles of organization” together with such other words as the limited liability company may deem appropriate and shall be executed by an authorized person and filed as provided in K.S.A. 17-7678, and amendments thereto, with the secretary of state. If the restated articles of organization restate and integrate and also further amend in any respect the articles of organization, as previously amended or supplemented, they shall be specifically designated in their heading as “amended and restated articles of organization” together with such other words as the limited liability company may deem appropriate and shall be executed by at least one authorized person and filed as provided in K.S.A. 17-7678, and amendments thereto, with the secretary of state.~~

(c) ~~Restated articles of organization shall be specifically designated as such in the heading. They shall state, either in their heading or in an introductory paragraph, the limited liability company’s present name; if it has been changed, the name under which it was originally filed; the date of filing of its original articles of organization with the secretary of state; and the future effective date, which shall be a date certain, of the restated articles of organization if they are not to be effective upon the filing of the restated articles of organization with the secretary of state §, such future effective date must be within 90 days of the date of filing such restated articles of organization with the secretary of state). Restated articles also of organization shall also state that they were duly executed and are being filed in accordance with the provisions of this section. If the restated articles of organization only restate and integrate and do not further amend the provisions of the a limited liability company’s articles of organization as previously amended or supplemented and there is no discrepancy between those provisions and the provisions of the restated articles of organization, they shall state that fact as well.~~

(d) Upon the filing of ~~the~~ restated articles of organization with the secretary of state, or upon the future effective date of restated articles of organization as provided for therein, the initial articles of organization, as previously amended or supplemented, shall be superseded. Thereafter the restated articles of organization, including any further amendment or changes made ~~by the restated articles thereby~~, shall be the articles of organization of the limited liability company, but the original effective date of formation shall remain unchanged.

(e) Any amendment or change ~~made~~ effected in connection with the restatement and integration of the articles of organization shall be subject

to any other provision of this act, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to ~~make~~ *the effect such amendment or change.*

Sec. 17. K.S.A. 2013 Supp. 17-7681 is hereby amended to read as follows: 17-7681. (a) Pursuant to an agreement of merger or consolidation, ~~a one or more domestic limited liability company companies~~ may merge or consolidate with or into one or more limited liability companies formed under the laws of ~~this the state of Kansas~~ or any other state or *any foreign country or other foreign jurisdiction, or any combination thereof,* with such limited liability company as the agreement shall provide being the surviving or resulting limited liability company. Unless otherwise provided in the ~~limited liability company~~ operating agreement, ~~a an agreement of merger or consolidation shall be approved by each domestic limited liability company which is to merge or consolidate by the members, or if there is more than one class or group of members, then by each class or group of members, in either case, by the affirmative vote or consent of not less than a majority in interest of the remaining members who own more than 50% of the then current percentage or other interest in the profits of the domestic limited liability company owned by all of the members or by the members in each class or group, as appropriate.~~ In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a domestic limited liability company which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting limited liability company or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a limited liability company which is not the surviving or resulting limited liability company in the merger or consolidation *or may be canceled.* Notwithstanding prior approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation.

(b) The limited liability company surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation *executed by one or more authorized persons on behalf of the domestic limited liability company when it is the surviving or resulting entity* with the secretary of state. The certificate of merger or consolidation shall state:

- (1) The name and jurisdiction of formation or organization of each of the limited liability companies which is to merge or consolidate;
- (2) that an agreement of merger or consolidation has been approved and executed by each of the limited liability companies which is to merge or consolidate;
- (3) the name of the surviving or resulting limited liability company;

(4) *in the case of a merger in which a domestic limited liability company is the surviving entity, such amendments, if any, to the articles of organization of the surviving domestic limited liability company to change its name, registered office or resident agent as are desired to be effected by the merger;*

~~(4)(5) the future effective date or time, which shall be a date certain, of the merger or consolidation if it is not to be effective upon the filing of the certificate of merger or consolidation, which date shall, in no event, exceed 90 days after the date the certificate is filed in with the secretary of state's office state;~~

~~(5)(6) that the agreement of merger or consolidation is on file at a place of business of the surviving or resulting limited liability company, and shall state the address thereof;~~

~~(6)(7) that a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting limited liability company, on request and without cost, to any member of any limited liability company which is to merge or consolidate; and~~

~~(7)(8) if the surviving or resulting entity limited liability company is not a domestic limited liability company, a statement that such surviving entity or resulting limited liability company agrees that it may be served with process in the state of Kansas in any action, suit or proceeding for the enforcement of any obligation of any domestic limited liability company which is to merge or consolidate, irrevocably appointing the secretary of state as its agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to it by the secretary of state.~~

(c) Unless a future effective date or time is provided in a certificate of merger or consolidation, in which event a merger or consolidation shall be effective at any such future effective date or time, a merger or consolidation shall be effective upon the filing with the secretary of state of a certificate of merger or consolidation. ~~If a certificate of merger or consolidation provides for a future effective date or time and if an agreement of merger or consolidation is amended to change the future effective date or time, or to change any other matter described in the certificate of merger or consolidation so as to make the certificate of merger or consolidation false in any material respect, as permitted by subsection (b) of this section prior to the future effective date or time, the certificate of merger or consolidation shall be amended by the filing of a certificate of amendment of a certificate of merger or consolidation which shall identify the certificate of merger or consolidation and the agreement of merger or consolidation which has been amended and shall state that the agreement of merger or consolidation has been amended and shall set forth the amendment to the certificate of merger or consolidation. If a certificate of merger or consolidation provides for a future effective date or time and if an agreement of merger or consolidation is terminated as~~

~~permitted by subsection (a) of this section prior to the future effective date or time, the certificate of merger or consolidation shall be terminated by the filing of a certificate of termination of a merger or consolidation which shall identify the certificate of merger or consolidation and the agreement of merger or consolidation which has been terminated and shall state that the agreement of merger or consolidation has been terminated.~~

(d) A certificate of merger or consolidation shall act as a certificate of cancellation for a domestic limited liability company which is not the surviving or resulting ~~entity~~ *limited liability company* in the merger or consolidation. *A certificate of merger that sets forth any amendment in accordance with subsection (b)(4) shall be deemed to be an amendment to the articles of organization of the limited liability company, and the limited liability company shall not be required to take any further action to amend its articles of organization under K.S.A. 17-7674, and amendments thereto, with respect to such amendments set forth in the certificate of merger. Whenever this section requires the filing of a certificate of merger or consolidation, such requirement shall be deemed satisfied by the filing of an agreement of merger or consolidation containing the information required by this section to be set forth in the certificate of merger or consolidation.*

(e) An agreement of merger or consolidation approved in accordance with subsection (a) of this section may:

- (1) Effect any amendment to the operating agreement; or
- (2) effect the adoption of a new operating agreement, *for a limited liability company if it is the surviving or resulting limited liability company in the merger or consolidation.*

Any amendment to an operating agreement or adoption of a new operating agreement made pursuant to the foregoing ~~provision~~ *sentence* shall be effective at the effective time or date of the merger or consolidation *and shall be effective notwithstanding any provision of the operating agreement relating to amendment or adoption of a new operating agreement, other than a provision that by its terms applies to an amendment to the operating agreement or the adoption of a new operating agreement, in either case, in connection with a merger or consolidation.* The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in an operating agreement or other agreement or as otherwise permitted by law, including that the operating agreement of any constituent limited liability company to the merger or consolidation ~~including a limited liability company formed for the purpose of consummating a merger or consolidation~~, shall be the operating agreement of the surviving or resulting limited liability company.

(f) When any merger or consolidation shall have become effective under this section, for all purposes of the laws of the state of Kansas, all

of the rights, privileges and powers of each of the limited liability companies that have merged or consolidated, and all property, real, personal and mixed, and all debts due to any of the limited liability companies, as well as all other things and causes of action belonging to each of such limited liability companies, shall be vested in the surviving or resulting limited liability company, and shall thereafter be the property of the surviving or resulting limited liability company as they were of each of the limited liability companies that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of the state of Kansas, in any of such limited liability companies, shall not revert or be in any way impaired by reason of this ~~section~~ *act*, but all rights of creditors and all liens upon any property of any of the limited liability companies shall be preserved unimpaired, and all debts, liabilities and duties of each of the limited liability companies that have merged or consolidated shall thenceforth attach to the surviving or resulting limited liability company, and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it. Unless otherwise agreed, a merger or consolidation of a *domestic* limited liability company, including a *domestic* limited liability company which is not the surviving or resulting entity in the merger or consolidation, shall not require such *domestic* limited liability company to wind up its affairs under K.S.A. 17-76,118, and amendments thereto, or pay its liabilities and distribute its assets under K.S.A. 17-76,119, and amendments thereto, *and the merger or consolidation shall not constitute a dissolution of such limited liability company.*

(g) A limited liability company may merge or consolidate with or into any other entity in accordance with the business entity transactions act, K.S.A. 2013 Supp. 17-78-101 et seq., and amendments thereto.

(h) *An operating agreement may provide that a domestic limited liability company shall not have the power to merge or consolidate as set forth in this section.*

Sec. 18. K.S.A. 2013 Supp. 17-7682 is hereby amended to read as follows: 17-7682. An operating agreement or an agreement of merger or consolidation may provide that contractual appraisal rights with respect to a limited liability company interest or another interest in a limited liability company shall be available for any class, group or series of members or limited liability company interests in connection with any amendment of ~~the~~ *an* operating agreement, any merger or consolidation in which the limited liability company is a constituent party to the merger or consolidation, or the sale of all or substantially all of the limited liability company's assets. The district court shall have jurisdiction to hear and determine any matter relating to any such appraisal rights.

Sec. 19. K.S.A. 17-7683 is hereby amended to read as follows: 17-7683. (a) Whenever any articles *of organization* or certificate authorized

to be filed with the secretary of state under any provision of this act has been so filed and is *an inaccurate in any respect record of the action therein referred to*, or was defectively or erroneously executed, such articles of organization or certificate may be corrected by filing with the secretary of state a certificate of correction of such articles of organization or certificate. The certificate of correction shall specify the inaccuracy or defect to be corrected, shall set forth the portion of the articles of organization or certificate in corrected form and shall be executed and filed as required by this act. The certificate of correction shall be effective as of the date the original articles of organization or certificate was filed, except as to those persons who are substantially and adversely affected by the correction, and as to those persons the certificate of correction shall be effective from the filing date.

(b) In lieu of filing a certificate of correction, articles of organization or a certificate may be corrected by filing with the secretary of state corrected articles of organization or a corrected certificate which shall be executed and filed as if the corrected articles of organization or certificate were the articles of organization or certificate being corrected, and a fee equal to the fee payable to the secretary of state if the articles of organization or certificate being corrected were then being filed shall be paid and collected by the secretary of state for the use of the state of Kansas in connection with the filing of the corrected articles of organization or certificate. The corrected articles of organization or certificate shall be specifically designated as such in their or its heading, shall specify the inaccuracy or defect to be corrected, and shall set forth all articles of organization or the entire articles or certificate in corrected form. Articles of organization or a certificate corrected in accordance with this section shall be effective as of the date the original articles of organization or certificate was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons the articles of organization or certificate as corrected shall be effective from the filing date.

(c) The secretary of state may correct the secretary's own errors on the secretary's own motion.

Sec. 20. K.S.A. 17-7686 is hereby amended to read as follows: 17-7686. (a) In connection with the formation of a limited liability company, a person is admitted as a member of the limited liability company upon the later to occur of:

- (1) The formation of the limited liability company; or
- (2) the time provided in and upon compliance with the operating agreement or, if the operating agreement does not so provide, when the person's admission is reflected in the records of the limited liability company.

(b) After the formation of a limited liability company, a person is admitted as a member of the limited liability company:

(1) In the case of a person who is not an assignee of a limited liability company interest, including a person acquiring a limited liability company interest directly from the limited liability company and a person to be admitted as a member of the limited liability company without acquiring a limited liability company interest in the limited liability company at the time provided in and upon compliance with the operating agreement or, if the operating agreement does not so provide, upon the consent of all members and when the person's admission is reflected in the records of the limited liability company;

(2) in the case of an assignee of a limited liability company interest, as provided in subsection (a) of K.S.A. 17-76,114, and amendments thereto, and at the time provided in and upon compliance with the operating agreement or, if the operating agreement does not so provide, when any such person's permitted admission is reflected in the records of the limited liability company; or

(3) unless otherwise provided in an agreement of merger or consolidation, in the case of a person acquiring a limited liability company interest in a surviving or resulting limited liability company pursuant to a merger or consolidation approved in accordance with subsection ~~(b)~~ (a) of K.S.A. 17-7681, and amendments thereto, at the time provided in and upon compliance with the operating agreement of the surviving or resulting limited liability company; *and in the case of a person being admitted as a member of a limited liability company pursuant to a merger or consolidation in which such limited liability company is not the surviving or resulting limited liability company in the merger or consolidation, as provided in the operating agreement of such limited liability company.*

(c) A person may be admitted to a limited liability company as a member of the limited liability company and may receive a limited liability company interest in the limited liability company without making a contribution or being obligated to make a contribution to the limited liability company. Unless otherwise provided in an operating agreement, a person may be admitted to a limited liability company as a member of the limited liability company without acquiring a limited liability company interest in the limited liability company. Unless otherwise provided in ~~an~~ an operating agreement, a person may be admitted as the sole member of a limited liability company without making a contribution or being obligated to make a contribution to the limited liability company or without acquiring a limited liability company interest in the limited liability company.

(d) *Unless otherwise provided in an operating agreement or another agreement, a member shall have no preemptive right to subscribe to any additional issue of limited liability company interests or another interest in a limited liability company.*

Sec. 21. K.S.A. 17-7687 is hereby amended to read as follows: 17-7687. (a) An operating agreement may provide for classes or groups of members having such relative rights, powers and duties as the operating agreement may provide, and may make provision for the future creation in the manner provided in the operating agreement of additional classes or groups of members having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members. An operating agreement may provide for the taking of an action, including the amendment of the operating agreement, without the vote or approval of any member or class or group of members, including an action to create under the provisions of the operating agreement a class or group of limited liability company interests that was not previously outstanding. An operating agreement may provide that any member or class or group of members shall have no voting rights.

(b) An operating agreement may grant to all or certain identified members or a specified class or group of the members the right to vote separately or with all or any class or group of the members or managers, on any matter. Voting by members may be on a per capita, number, financial interest, class, group or any other basis.

(c) An operating agreement ~~which grants a right to vote~~ may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(d) Unless otherwise provided in an operating agreement, *meetings of members may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting.* ~~Unless otherwise provided in an operating agreement, on any matter that is to be voted on, consented to or approved by members, the members may take such action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the consented to, in writing or by electronic transmission, by members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting which unless otherwise provided in the operating agreement or this act shall be a majority in interest of each class at which all members entitled to vote thereon were present and voted.~~ Unless otherwise provided in an operating agreement, on any matter that is to be voted on by members, the members may vote in person or by proxy, *and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law. Unless otherwise provided in an operating*

*agreement, a consent transmitted by electronic transmission by a member or by a person or persons authorized to act for a member shall be deemed to be written and signed for purposes of this subsection. For purposes of this subsection, the term “electronic transmission” means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.*

(e) Unless otherwise provided in the operating agreement or in this act, every member holding an interest in profits shall be entitled to vote.

~~(f) When, under the provisions of this act or under the provisions of the articles of organization or operating agreement of a limited liability company, notice is required to be given to a member of a limited liability company a waiver in writing signed by the person or persons entitled to the notice, whether made before or after the time for notice to be given, is equivalent to the giving of notice. If an operating agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the operating agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law, including as permitted by subsection (e) of K.S.A. 17-7681, and amendments thereto, provided that the approval of any person may be waived by such person and that any such conditions may be waived by all persons for whose benefit such conditions were intended. Unless otherwise provided in an operating agreement, a supermajority amendment provision shall only apply to provisions of the operating agreement that are expressly included in the operating agreement. As used in this section, “supermajority amendment provision” means any amendment provision set forth in an operating agreement requiring that an amendment to a provision of the operating agreement be adopted by no less than the vote or consent required to take action under such latter provision.~~

(g) *If an operating agreement does not provide for the manner in which it may be amended, the operating agreement may be amended with the approval of all of the members or as otherwise permitted by law, including as permitted by subsection (e) of K.S.A. 17-7681, and amendments thereto. This subsection shall only apply to a limited liability company whose original articles of organization were filed with the secretary of state on or after July 1, 2014.*

Sec. 22. K.S.A. 17-7688 is hereby amended to read as follows: 17-7688. (a) Except as otherwise provided by this act, the debts, obligations and liabilities of a limited liability company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the limited liability company, and no member or manager of a limited liability company shall be obligated personally for any such debt, obliga-

tion or liability of the limited liability company solely by reason of being a member or acting as a manager of the limited liability company.

(b) Notwithstanding the provisions of subsection (a) ~~of this section~~, under an operating agreement or under another agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations and liabilities of the limited liability company.

~~(c) A member or manager of a limited liability company is not a proper party to proceedings by or against a limited liability company, except when the object is to enforce a member's or manager's right against, or liability to, the limited liability company.~~

Sec. 23. K.S.A. 17-7689 is hereby amended to read as follows: 17-7689. A person ceases to be a member of a limited liability company ~~and shall become an assignee~~ upon the happening of any of the following events:

(a) Unless otherwise provided in an operating agreement, or with the written consent of all members, a member:

- (1) Makes an assignment for the benefit of creditors;
- (2) files a voluntary petition in bankruptcy;
- (3) is adjudged a bankrupt or insolvent, or has entered against the member an order for relief, in any bankruptcy or insolvency proceeding;
- (4) files a petition or answer seeking for the ~~member's own self~~ *member* any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation;
- (5) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature;

(6) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties; or

(b) unless otherwise provided in an operating agreement, or with the written consent of all members, 120 days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without the member's consent or acquiescence of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated.

Sec. 24. K.S.A. 17-7690 is hereby amended to read as follows: 17-7690. (a) Each member of a limited liability company has the right, subject to such reasonable standards ~~‡~~, including standards governing what information and documents are to be furnished at what time and location and at whose expense~~‡~~, as may be set forth in an operating agreement or

otherwise established by the manager or, if there is no manager, then by the members, to obtain from the limited liability company from time to time upon reasonable demand for any purpose reasonably related to the member's interest as a member of the limited liability company:

(1) True and full information regarding the status of the business and financial condition of the limited liability company;

(2) promptly after becoming available, a copy of the limited liability company's federal, state and local income tax returns for each year;

(3) a current list of the name and last known business, residence or mailing address of each member and manager;

(4) a copy of any written operating agreement and articles of organization and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the operating agreement and any certificate and all amendments thereto have been executed;

(5) true and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and

(6) other information regarding the affairs of the limited liability company as is just and reasonable.

(b) Each manager shall have the right to examine all of the information described in subsection (a) ~~of this section~~ for a purpose reasonably related to the ~~manager's position as a~~ of manager.

(c) The manager of a limited liability company shall have the right to keep confidential from the members, for such period of time as the manager deems reasonable, any information which the manager reasonably believes to be in the nature of trade secrets or other information the disclosure of which the manager in good faith believes is not in the best interest of the limited liability company or could damage the limited liability company or its business or which the limited liability company is required by law or by agreement with a third party to keep confidential.

(d) A limited liability company may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

(e) Any demand by a member under this section shall be in writing and shall state the purpose of such demand.

(f) Any action to enforce any right arising under this section shall be brought in the district court. If the limited liability company refuses to permit a member to obtain or a manager to examine the information described in subsection (a) ~~(3) of this section~~ or does not reply to the demand that has been made within five business days, *or such shorter or longer period of time as is provided for in an operating agreement, but not longer than 30 business days*, after the demand has been made, the demanding member or manager may apply to the district court for an

order to compel such disclosure. The district court may summarily order the limited liability company to permit the demanding member to obtain or manager to examine the information described in subsection (a)(3) of this section and to make copies or abstracts therefrom, or the district court may summarily order the limited liability company to furnish to the demanding member or manager the information described in subsection (a)(3) of this section on the condition that the demanding member or manager first pay to the limited liability company the reasonable cost of obtaining and furnishing such information and on such other conditions as the district court deems appropriate. When a demanding member seeks to obtain or a manager seeks to examine the information described in subsection (a)(3) of this section, the demanding member or manager shall first establish (1) that the demanding member or manager has complied with the provisions of this section respecting the form and manner of making demand for obtaining or examining of such information, and (2) that the information the demanding member or manager seeks is reasonably related to the member's interest as a member or the manager's position as a manager, as the case may be. The district court may, in its discretion, prescribe any limitations or conditions with reference to the obtaining or examining of information, or award such other or further relief as the district court may deem just and proper. The district court may order books, documents and records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within the state of Kansas and kept in the state of Kansas upon such terms and conditions as the order may prescribe.

~~(g) Failure to maintain books and records shall not be grounds for personal liability of any member or manager. The rights of a member or manager to obtain information as provided in this section may be restricted in an original operating agreement or in any subsequent amendment approved or adopted by all of the members or in compliance with any applicable requirements of the operating agreement. The provisions of this subsection shall not be construed to limit the ability to impose restrictions on the rights of a member or manager to obtain information by any other means permitted under this act.~~

Sec. 25. K.S.A. 17-7691 is hereby amended to read as follows: 17-7691. An operating agreement may provide that:

(a) A member who fails to perform in accordance with, or to comply with the terms and conditions of, the operating agreement shall be subject to specified penalties or specified consequences; and

(b) at the time or upon the happening of events specified in the operating agreement, a member shall be subject to specified penalties or specified consequences.

*Such specified penalties or specified consequences may include and take*

*the form of any penalty or consequence set forth in subsection (c) of K.S.A. 17-76,100, and amendments thereto.*

Sec. 26. K.S.A. 17-7693 is hereby amended to read as follows: 17-7693. ~~(a)~~ Unless otherwise provided in an operating agreement, the management of a limited liability company shall be vested in its members in proportion to the then current percentage or other interest of members in the profits of the limited liability company owned by all of the members, the decision of members owning more than 50% of the *then current* percentage or other interest in the profits controlling, ~~provided however, except~~ that if an operating agreement provides for the management, in whole or in part, of a limited liability company by a manager, the management of the limited liability company, to the extent so provided, shall be vested in the manager who shall be chosen ~~by the members~~ in the manner provided in the operating agreement. The manager shall also hold the offices and have the responsibilities accorded to the manager ~~by the members and set forth~~ or *in the manner provided* in an operating agreement. Subject to K.S.A. 17-76,105, and amendments thereto, a manager shall cease to be a manager as provided in an operating agreement. A limited liability company may have more than one manager. ~~Unless otherwise provided in an operating agreement, each member in a member managed LLC has the authority to bind the limited liability company, and each manager, in a manager managed LLC has the authority to bind the LLC.~~

(b) ~~If the articles of organization provide that management of the limited liability company is vested in one or more managers: (1) No member acting solely in the member's capacity as a member, is an agent of the limited liability company, and (2) every manager is an agent of the limited liability company for the purpose of its business and affairs, and the act of any manager for apparently carrying on the usual way of the business or affairs of the limited liability of which the manager is a manager binds the limited liability company, unless the manager so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge of the fact that the manager has no such authority.~~

(c) ~~An act of a member or manager which apparently is not for carrying on the usual way of the business or affairs of the limited liability company does not bind the limited liability company unless authorized in accordance with the terms of the articles of organization or operating agreement, at the time of the transaction or at any other time. Unless otherwise provided in the articles of organization or operating agreement, a transaction not in the ordinary course of the business or affairs of the limited liability company must be approved by a majority, by number, of the members of the limited liability company.~~

Sec. 27. K.S.A. 17-7695 is hereby amended to read as follows: 17-

7695. (a) An operating agreement may provide for classes or groups of managers having such relative rights, powers and duties as the operating agreement may provide, and may make provision for the future creation in the manner provided in the operating agreement of additional classes or groups of managers having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of managers. An operating agreement may provide for the taking of an action, including the amendment of the operating agreement, without the vote or approval of any manager or class or group of managers, including an action to create under the provisions of the operating agreement a class or group of limited liability company interests that was not previously outstanding.

(b) An operating agreement may grant to all or certain identified managers or a specified class or group of the managers the right to vote, separately or with all or any class or group of managers or members, on any matter. Voting by managers may be on a per capita, number, financial interest, class, group or any other basis. Unless otherwise provided in ~~the~~ *an* operating agreement, if more than one manager is appointed, all managers shall have an equal vote per capita.

(c) An operating agreement ~~which grants a right to vote~~ may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any manager or class or group of managers, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(d) Unless otherwise provided in an operating agreement, *meetings of managers may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting.* Unless otherwise provided in an operating agreement, on any matter that is to be voted on, *consented to or approved by the* managers, the managers may take such action without a meeting, without prior notice and without a vote, ~~if a consent or consents in writing, setting forth the action so taken, shall be signed by the~~ *if consented to, in writing or by electronic transmission, by* managers having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting *at which all managers entitled to vote thereon were present and voted.* Unless otherwise provided in an operating agreement, on any matter that is to be voted on by managers, the managers may vote in person or by proxy, *and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law.* Unless otherwise provided in an operating agreement, *a consent transmitted by electronic transmission by a manager or by a person or persons authorized to act*

*for a manager shall be deemed to be written and signed for purposes of this subsection. For purposes of this subsection, the term “electronic transmission” means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.*

~~(e) When, under the provisions of the Kansas revised limited liability company act or under the provisions of the articles of organization or operating agreement of a limited liability company, notice is required to be given to a manager of a limited liability company having a manager or managers, a waiver in writing signed by the person or persons entitled to the notice, whether made before or after the time for notice to be given, is equivalent to the giving of notice.~~

Sec. 28. K.S.A. 17-7697 is hereby amended to read as follows: 17-7697. A member ~~or~~, manager *or liquidating trustee* of a limited liability company shall be fully protected in relying in good faith upon the records of the limited liability company and upon ~~such~~ information, opinions, reports or statements presented ~~to~~ *by another manager, member or liquidating trustee, an officer or employee of the limited liability company by any of its other managers, members, officers, employees, or committees of the limited liability company, members or managers, or by any other person;* as to matters the member ~~or~~, manager *or liquidating trustee* reasonably believes are within such other person’s professional or expert competence and who has been selected with reasonable care by or on behalf of the limited liability company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the limited liability company, *or the value and amount of assets or reserves or contracts, agreements or other undertakings that would be sufficient to pay claims and obligations of the limited liability company or to make reasonable provision to pay such claims and obligations,* or any other facts pertinent to the existence and amount of assets from which distributions to members *or creditors* might properly be paid.

Sec. 29. K.S.A. 17-7698 is hereby amended to read as follows: 17-7698. Unless otherwise provided in the operating agreement, a member or manager of a limited liability company has the power and authority to delegate to one or more other persons the member’s or manager’s, as the case may be, rights and powers to manage and control the business and affairs of the limited liability company, including to delegate to agents, officers and employees of a member or manager or the limited liability company, and to delegate by a management agreement or another agreement with, or otherwise to, other persons. Unless otherwise provided in the operating agreement, such delegation by a member or manager of a limited liability company shall not cause the member or manager to cease

to be a member or manager, *as the case may be, of the limited liability company or cause the person to whom any such rights and powers have been delegated to be a member or manager, as the case may be, of the limited liability company.*

Sec. 30. K.S.A. 17-76,100 is hereby amended to read as follows: 17-76,100. (a) Except as provided in an operating agreement, a member is obligated to a limited liability company to perform any promise to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability or any other reason. If a member does not make the required contribution of property or services, the member is obligated at the option of the limited liability company to contribute cash equal to that portion of the agreed value~~—~~, as stated in the records of the limited liability company), of the contribution that has not been made. The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company may have against such member under the operating agreement or applicable law.

(b) Unless otherwise provided in an operating agreement, the obligation of a member to make a contribution or return money or other property paid or distributed in violation of this act may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit, after the entering into of an operating agreement or an amendment thereto which, in either case, reflects the obligation, and before the amendment thereof to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a member to make a contribution or return. A conditional obligation of a member to make a contribution or return money or other property to a limited liability company may not be enforced unless the conditions of the obligation have been satisfied or waived as to or by such member. Conditional obligations include contributions payable upon a discretionary call of a limited liability company prior to the time the call occurs.

(c) An operating agreement may provide that the interest of any member who fails to make any contribution that the member is obligated to make shall be subject to specified penalties for, or specified consequences of, such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting member's proportionate interest in a limited liability company, subordinating the member's limited liability company interest to that of nondefaulting members, a forced sale of ~~the member's~~ *that* limited liability company interest, forfeiture of the *defaulting* member's limited liability company interest, the lending by other members of the amount necessary to meet the *defaulting* member's commitment, a fixing of the value of the *defaulting* member's limited liability

company interest by appraisal or by formula and redemption or sale of the ~~member's~~ limited liability company interest at such value, or other penalty or consequence.

Sec. 31. K.S.A. 17-76,103 is hereby amended to read as follows: 17-76,103. No obligation of a member or manager of a limited liability company to the limited liability company, *or to a member or manager of the limited liability company*, arising under the operating agreement or a separate agreement or writing, and no note, instrument or other writing evidencing any such obligation of a member or manager, shall be subject to the defense of usury, and no member or manager shall interpose the defense of usury with respect to any such obligation in any action.

Sec. 32. K.S.A. 17-76,104 is hereby amended to read as follows: 17-76,104. Except as provided in ~~this act~~ K.S.A. 17-76,104 through 17-76,110, and amendments thereto, to the extent and at the times or upon the happening of the events specified in an operating agreement, a member is entitled to receive from a limited liability company distributions before the member's resignation from the limited liability company and before the dissolution and winding up thereof.

Sec. 33. K.S.A. 17-76,105 is hereby amended to read as follows: 17-76,105. A manager may resign as a manager of a limited liability company at the time or upon the happening of events specified in *an operating agreement* and in accordance with the ~~limited liability company operating agreement~~. An operating agreement may provide that a manager shall not have the right to resign as a manager of a limited liability company. Notwithstanding that an operating agreement provides that a manager does not have the right to resign as a manager of a limited liability company, a manager may resign as a manager of a limited liability company at any time by giving written notice to the members and other managers. If the resignation of a manager violates an operating agreement, in addition to any remedies otherwise available under applicable law, a limited liability company may recover from the resigning manager damages for breach of the operating agreement and offset the damages against the amount otherwise distributable to the resigning manager.

Sec. 34. K.S.A. 17-76,106 is hereby amended to read as follows: 17-76,106. (a) A member may resign from a limited liability company only at the time or upon the happening of events specified in *an operating agreement* and in accordance with the operating agreement. Notwithstanding anything to the contrary under applicable law, unless ~~the~~ *an* operating agreement provides otherwise, a member may *not* resign from a limited liability company prior to the dissolution and winding up of the limited liability company. ~~Upon resignation the member shall be deemed to be an assignee and shall have only the rights of an assignee. The resigned member is not released from the member's liability, if any, to a limited liability company. Notwithstanding anything to the contrary under~~

applicable law, the operating agreement may provide that a limited liability company interest may not be assigned prior to the dissolution and winding up of the limited liability company.

(b) *Unless otherwise provided in an operating agreement, a limited liability company whose original articles of organization were filed with the secretary of state and effective on or prior to June 30, 2014, shall continue to be governed by this section as in effect on June 30, 2014, and shall not be governed by this section.*

Sec. 35. K.S.A. 17-76,107 is hereby amended to read as follows: 17-76,107. (a) Except as provided in ~~this act~~ K.S.A. 17-76,104 through 17-76,110, and amendments thereto, upon resignation any resigning member is entitled to receive any distribution to which ~~the~~ such member is entitled under ~~the~~ an operating agreement; ~~and, if not otherwise provided in the~~ an operating agreement, ~~the~~ resigning such member is ~~not~~ entitled to receive, *within a reasonable time after resignation*, the fair value of ~~the~~ such member's limited liability company interest ~~until the dissolution and winding up of~~ *as of the date of resignation based upon such member's right to share in distributions from the limited liability company. All distributions to a resigned member shall be subject to the provisions of K.S.A. 17-76,108, 17-76,109 and 17-76,110, and amendments thereto.*

(b) *Unless otherwise provided in an operating agreement, a limited liability company whose original articles of organization were filed with the secretary of state and effective on or prior to June 30, 2014, shall continue to be governed by this section in effect on June 30, 2014, and shall not be governed by this section.*

Sec. 36. K.S.A. 17-76,110 is hereby amended to read as follows: 17-76,110. (a) A limited liability company shall not make a distribution to a member to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited liability company, other than liabilities to members on account of their limited liability company interests and liabilities for which the recourse of creditors is limited to specified property of the limited liability company, exceed the fair value of the assets of the limited liability company, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited liability company only to the extent that the fair value of that property exceeds that liability. *For purposes of this subsection, "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program.*

(b) A member who receives a distribution in violation of subsection (a) of this section, and who knew at the time of the distribution that the distribution ~~violates~~ *violated* subsection (a) ~~of this section~~, shall be liable to a limited liability company for the amount of the distribution. A mem-

ber who receives a distribution in violation of subsection (a) ~~of this section~~, and who did not know at the time of the distribution that the distribution violated subsection (a) ~~of this section~~, shall not be liable for the amount of the distribution. Subject to subsection (c) ~~of this section~~, this subsection shall not affect any obligation or liability of a member under an agreement or other applicable law for the amount of a distribution.

(c) Unless otherwise agreed, a member who receives a distribution from a limited liability company shall have no liability under this act or other applicable law for the amount of the distribution after the expiration of three years from the date of the distribution unless an action to recover the distribution from such member is commenced prior to the expiration of ~~such~~ *the* three-year period and an adjudication of liability against such member is made in the action.

Sec. 37. K.S.A. 17-76,112 is hereby amended to read as follows: 17-76,112. (a) A limited liability company interest is assignable in whole or in part except as provided in an operating agreement. The assignee of a member's limited liability company interest shall have no right to participate in the management of the business and affairs of a limited liability company, except as provided in an operating agreement ~~and upon:~~

~~(1) The approval of all of the members of the limited liability company other than the member assigning the member's limited liability company interest, or~~

~~(2) compliance with any procedure provided for in the operating agreement or, unless otherwise provided in the operating agreement, upon the affirmative vote or written consent of all of the members of the limited liability company. Notwithstanding anything to the contrary under applicable law, an operating agreement may provide that a limited liability company interest may not be assigned prior to the dissolution and winding up of the limited liability company.~~

(b) Unless otherwise provided in an operating agreement:

(1) An assignment of a limited liability company interest does not entitle the assignee to become or to exercise any rights or powers of a member;

(2) an assignment of a limited liability company interest entitles the assignee to share in such profits and losses, to receive such distribution or distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and

(3) a member ceases to be a member and to have the power to exercise any rights or powers of a member upon assignment of all of the member's limited liability company interest. Unless otherwise provided in an operating agreement, the pledge of, or granting of a security interest, lien or other encumbrance in or against, any or all of the limited liability company interest of a member shall not cause the member to cease to

be a member or to have the power to exercise any rights or powers of a member.

(c) ~~Unless otherwise provided in an operating agreement that~~ *Unless otherwise provided in an operating agreement may provide that*, a member's interest in a limited liability company may be evidenced by a certificate of limited liability company interest issued by the limited liability company. *An operating agreement may provide for the assignment or transfer of any limited liability company interest represented by such a certificate and make other provisions with respect to such certificates. A limited liability company shall not have the power to issue a certificate of limited liability company interest in bearer form.*

(d) Unless otherwise provided in an operating agreement and except to the extent assumed by agreement, until an assignee of a limited liability company interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment.

(e) Unless otherwise provided in the operating agreement, a limited liability company may acquire, by purchase, redemption or otherwise, any limited liability company interest or other interest of a member or manager in the limited liability company. Unless otherwise provided in the operating agreement, any such interest so acquired by the limited liability company shall be deemed canceled.

~~(f) If the assignor of a limited liability company interest is the only member of the limited liability company at the time of the assignment, the assignee shall have the right to participate in the management of the business and affairs of the limited liability company as a member.~~

Sec. 38. K.S.A. 17-76,113 is hereby amended to read as follows: 17-76,113. ~~(a) On application to a court of competent jurisdiction by any by a judgment creditor of a member or of a member's assignee, the a court having jurisdiction may charge the limited liability company interest of the member with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the limited liability company interest. This act does not deprive any member of the benefit of any exemption laws applicable to the member's limited liability company interest. The rights provided by this section to the judgment creditor shall be the sole and exclusive remedy of a judgment creditor with respect to the member's limited liability company interest. judgment debtor to satisfy the judgment. To the extent so charged, the judgment creditor has only the right to receive any distribution or distributions to which the judgment debtor would otherwise have been entitled in respect of such limited liability company interest.~~

~~(b) A charging order constitutes a lien on the judgment debtor's limited liability company interest.~~

~~(c) This act does not deprive a member or member's assignee of a~~

*right under exemption laws with respect to the judgment debtor's limited liability company interest.*

*(d) The entry of a charging order is the exclusive remedy by which a judgment creditor of a member or of a member's assignee may satisfy a judgment out of the judgment debtor's limited liability company interest.*

*(e) No creditor of a member or of a member's assignee shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the limited liability company.*

*(f) The district court shall have jurisdiction to hear and determine any matter relating to any such charging order.*

Sec. 39. K.S.A. 17-76,114 is hereby amended to read as follows: 17-76,114. (a) An assignee of a limited liability company interest may become a member ~~as provided in an operating agreement and upon:~~

~~(1) The approval of all of the members of the limited liability company other than the member assigning the member's limited liability company interest, or~~

~~(2) compliance with any procedure provided for in the operating agreement.:~~

*(1) As provided in the operating agreement; or*

*(2) unless otherwise provided in the operating agreement, upon the affirmative vote or written consent of all of the members of the limited liability company.*

(b) An assignee who has become a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under an operating agreement and this act. Notwithstanding the foregoing, unless otherwise provided in an operating agreement, an assignee who becomes a member is liable for the obligations of the ~~assignee's~~ assignor to make contributions as provided in K.S.A. 17-76,100, and amendments thereto, but shall not be liable for the obligations of the ~~assignee's~~ assignor under ~~any other provision of this act K.S.A. 17-76,104 through 17-76,110, and amendments thereto.~~ However, the assignee is not obligated for liabilities, including the obligations of the ~~assignee's~~ assignor to make contributions as provided in K.S.A. 17-76,100, and amendments thereto, unknown to the assignee at the time the assignee became a member and which could not be ascertained from an operating agreement.

(c) Whether or not an assignee of a limited liability company interest becomes a member, the assignor is not released from ~~the assignor's~~ liability to a limited liability company under ~~any other provision of this act K.S.A. 17-7699 through 17-76,110, and amendments thereto.~~

Sec. 40. K.S.A. 17-76,115 is hereby amended to read as follows: 17-76,115. If a member who is an individual dies or a court of competent jurisdiction adjudges the member to be incompetent to manage the member's person or property, the member's personal representative ~~shall have~~

*may exercise all of the member's rights of an assignee of the member's interest, unless the deceased or incompetent member is the only member of the limited liability company, in which case the member's personal representative shall have the right to participate in the management of the business and the affairs of the limited liability company as a member, for the purpose of settling the member's estate or administering the member's property, including any power under an operating agreement of an assignee to become a member. If a member is a corporation, trust or other entity and is dissolved or terminated, the powers of that member may be exercised by its personal representative.*

Sec. 41. K.S.A. 17-76,116 is hereby amended to read as follows: 17-76,116. (a) A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1) At the time specified in an operating agreement, but if no such time is set forth in the operating agreement, then the limited liability company shall have a perpetual existence;

(2) upon the happening of events specified in an operating agreement;

(3) unless otherwise provided in an operating agreement, upon the *affirmative vote or* written consent of the members of the limited liability company; or, if there is more than one class or group of members, then by each class or group of members, in either case, by members who own more than ~~50%~~  $\frac{2}{3}$  of the then-current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate;

(4) at any time there are no members, provided that, *the limited liability company is not dissolved and is not required to be wound up if:*

(A) ~~Unless otherwise provided in an operating agreement, the limited liability company is not dissolved and is not required to be wound up if,~~ within 90 days or such other period as is provided for in the operating agreement after the occurrence of the event that terminated the continued membership of the last remaining member, the personal representative of the last remaining member agrees in writing to continue the limited liability company and to the admission of the personal representative of such member or ~~the personal representative's~~ *its* nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member, *except that an operating agreement may provide that the personal representative of the last remaining member shall be obligated to agree in writing to continue the limited liability company and to the admission of the personal representative of such member or its nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or*

(B) *a member is admitted to the limited liability company in the manner provided for in the operating agreement, effective as of the occurrence of the event that terminated the continued membership of the last remaining member, within 90 days or such other period as is provided for in the operating agreement after the occurrence of the event that terminated the continued membership of the last remaining member, pursuant to a provision of the operating agreement that specifically provides for the admission of a member to the limited liability company after there is no longer a remaining member of the limited liability company; or*

(5) the entry of a decree of judicial dissolution under K.S.A. 17-76,117, and amendments thereto.

(b) Unless otherwise provided in an operating agreement, the death, retirement, *resignation*, expulsion, bankruptcy or dissolution of any member or the occurrence of any other event that terminates the continued membership of any member shall not cause the limited liability company to be dissolved or its affairs to be wound up, and upon the occurrence of any such event, the limited liability company shall be continued without dissolution, ~~unless within 90 days following the occurrence of any such event, the remaining members of the limited liability company or, if there is more than one class or group of members, then the remaining members in each class or group of members, in either case, by members who own more than 50% of the then-current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate, agree in writing to dissolve the limited liability company.~~

Sec. 42. K.S.A. 17-76,117 is hereby amended to read as follows: 17-76,117. (a) A limited liability company may be dissolved involuntarily by order of the district court for the county in which the registered office of the limited liability company is located in an action filed by the attorney general when it is established that the limited liability company:

- (1) Has procured its articles of organization through fraud;
- (2) has exceeded the authority conferred upon it by law;
- (3) has committed a violation of any provision of law whereby it has forfeited its articles of organization;
- (4) has carried on, conducted or transacted its business in a persistently fraudulent or illegal manner; or
- (5) by the abuse of its powers contrary to the public policy of the state, has become liable to be dissolved.

(b) If the business of the limited liability company is suffering or is threatened with irreparable injury because the members of a limited liability company, or the managers of a limited liability company having more than one manager, are so deadlocked respecting the management of the affairs of the limited liability company that the requisite vote for action cannot be obtained and the members are unable to terminate such

deadlock, then any member or members in the aggregate owning at least 25% of the outstanding interests in either capital or profits and losses in the limited liability company may file with the district court a petition stating that such member or members desire to dissolve the limited liability company and to dispose of the assets thereof in accordance with a plan to be agreed upon by the members or as determined by the district court in the absence of such agreement. Such petition shall have attached thereto a copy of a proposed plan of dissolution and distribution and a certificate stating that copies of such petition and plan have been transmitted in writing to all of the other members of the limited liability company at least 30 days before the filing of the petition and that the members having the requisite vote required to cause dissolution under the operating agreement have failed or refused to consent to such plan. Unless a ~~majority in interest of the members~~ *(who own more than  $\frac{2}{3}$  of the then current percentage or other interest in profits of the limited liability company owned by all members, or if there is more than one class or group of members, then by each class or group, or such other number of members having the requisite vote to cause dissolution as the operating agreement may provide)*, file with the district court within the time period for the answer date of the petition, an answer and a certificate stating that they have agreed on either the petitioner's plan, or a modification or alternative thereof, then the district court shall order that such limited liability company be dissolved, if the district court determines that such irreparable injury and deadlock exists. In any proceeding under this section, the court may appoint one or more trustees or receivers with all the powers and title of a trustee or receiver appointed under K.S.A. 17-6808, and amendments thereto, to administer and wind up the limited liability company's affairs and may grant such other relief as the court deems equitable.

Sec. 43. K.S.A. 17-76,118 is hereby amended to read as follows: 17-76,118. (a) Unless otherwise provided in the operating agreement, a manager who has not wrongfully dissolved a limited liability company or, if none, the members or a person approved by the members or, if there is more than one class or group of members, then by each class or group of members, in either case, by members who own more than 50% of the then current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate, may wind up the limited liability company's affairs; but the district court upon cause shown, may wind up the limited liability company's affairs upon application of any member or manager, *or the member's* personal representative or assignee, and in connection therewith, may appoint a liquidating trustee.

(b) Upon dissolution of a limited liability company and until the filing of a certificate of ~~dissolution~~ *cancellation* as provided in K.S.A. 17-7675,

and amendments thereto, the persons winding up the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal or administrative, gradually settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge or make reasonable provision for the limited liability company's liabilities, and distribute to the members any remaining assets of the limited liability company, all without affecting the liability of ~~mem-~~  
~~ber~~ members and managers and without imposing liability on a liquidating trustee.

Sec. 44. K.S.A. 17-76,119 is hereby amended to read as follows: 17-76,119. (a) Upon the winding up of a limited liability company, the assets shall be distributed as follows:

(1) To creditors, including members and managers who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited liability company ~~(, whether by payment or the making of reasonable provision for payment thereof),~~ other than liabilities for which reasonable provision for payment has been made and liabilities for distributions to members and former members under K.S.A. 17-76,104 or 17-76,107, and amendments thereto;

(2) unless otherwise provided in an operating agreement, to members and former members in satisfaction of liabilities for distributions under K.S.A. 17-76,104 or 17-76,107, and amendments thereto;

(3) unless otherwise provided in an operating agreement, to members first for the return of their contributions and second respecting their limited liability company interests, in the proportions in which the members share in distributions.

(b) A limited liability company which has dissolved shall:

(1) Pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional or unmatured ~~claims and obligations~~ *contractual claims*, known to the limited liability company ~~and all claims and obligations which are known to the limited liability company but for which the identity of the claimant is unknown.~~

(2) *make such provision as will be reasonably likely to be sufficient to provide compensation for any claim against the limited liability company which is the subject of a pending action, suit or proceeding to which the limited liability company is a party; and*

(3) *make such provision as will be reasonably likely to be sufficient to provide compensation for claims that have not been made known to the limited liability company or that have not arisen but that, based on facts known to the limited liability company, are likely to arise or to become known to the limited liability company within 10 years after the date of dissolution.*

If there are sufficient assets, such claims and obligations shall be paid

in full and any such provision for payment made shall be made in full. If there are insufficient assets, such claims and obligations shall be paid or provided for according to their priority and, among claims and obligations of equal priority, ratably to the extent of assets available therefor. Unless otherwise provided in ~~an~~ the operating agreement, any remaining assets shall be distributed as provided in this act. Any liquidating trustee winding up a limited liability company's affairs who has complied with this section shall not be personally liable to the claimants of the dissolved limited liability company by ~~reasons~~ reason of such person's actions in winding up the limited liability company.

(c) *A member who receives a distribution in violation of subsection (a) and who knew at the time of the distribution that the distribution violated subsection (a), shall be liable to the limited liability company for the amount of the distribution. For purposes of the immediately preceding sentence, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program. A member who receives a distribution in violation of subsection (a) and who did not know at the time of the distribution that the distribution violated subsection (a), shall not be liable for the amount of the distribution. Subject to subsection (d), this subsection shall not affect any obligation or liability of a member under an agreement or other applicable law for the amount of a distribution.*

(d) *Unless otherwise agreed, a member who receives a distribution from a limited liability company to which this section applies shall have no liability under this act or other applicable law for the amount of the distribution after the expiration of three years from the date of the distribution unless an action to recover the distribution from such member is commenced prior to the expiration of the three-year period and an adjudication of liability against such member is made in the action.*

(e) *K.S.A. 17-76,110, and amendments thereto, shall not apply to a distribution to which this section applies.*

Sec. 45. K.S.A. 17-76,121 is hereby amended to read as follows: 17-76,121. Before doing business in the state of Kansas, a foreign limited liability company shall register with the secretary of state. In order to register, a foreign limited liability company shall submit to the secretary of state, together with payment of the fee required by this act, an original copy executed by a member or manager, together with a duplicate copy, of an application for registration as a foreign limited liability company, setting forth:

- (a) The name of the foreign limited liability company;
- (b) the state or other jurisdiction or country where organized, the date of its organization and a statement issued by an appropriate authority

in that jurisdiction or by a third-party agent authorized by the secretary of state that the foreign limited liability company exists in good standing under the laws of the jurisdiction of its organization;

(c) the nature of the business or purposes to be conducted or promoted in the state of Kansas;

(d) the address of the registered office and the name and address of the resident agent for service of process required to be maintained by this act;

(e) an irrevocable written consent of the foreign limited liability company that actions may be commenced against it in the proper court of any county where there is proper venue by the service of process on the secretary of state as provided for in K.S.A. 60-304, and amendments thereto, and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon ~~the general partners~~ *a member of the foreign limited liability company, if such foreign limited liability company is member-managed, or upon a manager of the foreign limited liability company, if such foreign limited liability company is manager-managed;*

(f) the name and business, residence or mailing address of each of the members or, if managed by managers, the name and business, residence or mailing address of each of the managers; and

(g) the date on which the foreign limited liability company first did, or intends to do, business in the state of Kansas.

~~A person shall not be deemed to be doing business in the state of Kansas solely by reason of being a member or manager of a domestic limited liability company or a foreign limited liability company.~~

Sec. 46. K.S.A. 17-76,121a is hereby amended to read as follows: 17-76,121a. (a) Activities of a foreign limited liability company which do not constitute doing business within the meaning of K.S.A. 17-76,121, and amendments thereto, include:

- (1) Maintaining, defending or settling an action or proceeding;
- (2) holding meetings *of its members or managers* or carrying on any other activity concerning its internal affairs;
- (3) maintaining bank accounts;
- (4) maintaining offices or agencies for the transfer, exchange ~~and or~~ registration of the company's own securities or maintaining trustees or depositories with respect to those securities;
- (5) selling through independent contractors;
- (6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;
- (7) *selling, by contract consummated outside the state of Kansas, and agreeing, by the contract, to deliver into the state of Kansas machinery, plants or equipment, the construction, erection or installation of which*

*within the state requires the supervision of technical engineers or skilled employees performing services not generally available, and as part of the contract of sale agreeing to furnish such services, and such services only, to the vendee at the time of construction, erection or installation;*

~~(7)-(8) creating, as borrower or lender, or acquiring indebtedness; mortgages or security interests with or without a mortgage or other security interest in real or personal property;~~

~~(8) securing or~~ (9) collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting and maintaining property so acquired;

~~(9)-(10) conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions of like nature; and~~

~~(10)-(11) transacting business in interstate commerce.~~

(b) ~~The ownership in this state of income producing real property or tangible personal property, other than property excluded under subsection (a), constitutes doing business in this state. A person shall not be deemed to be doing business in the state of Kansas solely by reason of being a member or manager of a domestic limited liability company or a foreign limited liability company.~~

(c) This section does not apply in determining ~~the contacts or activities that may subject~~ *whether* a foreign limited liability company is subject to service of process, taxation or regulation under any other law of this state.

~~(d) The provisions of this section shall be part of and supplemental to the Kansas revised limited liability company act.~~

Sec. 47. K.S.A. 17-76,122 is hereby amended to read as follows: 17-76,122. (a) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary of state shall:

(1) Certify that the application has been filed in the secretary of state's office by endorsing upon the original application the word "filed" and the date and hour of the filing, and the endorsement is conclusive of the date and time of its filing in the absence of actual fraud; and

(2) file and index the endorsed application.

(b) ~~The duplicate~~ A *copy* of the application, similarly certified, shall be returned to the person who filed the application or that person's representative.

Sec. 48. K.S.A. 17-76,123 is hereby amended to read as follows: 17-76,123. (a) The secretary of state shall not issue a registration to a foreign limited liability company unless the name of such limited liability company is such as to distinguish it upon the records of the office of the secretary of state from the names of other limited liability companies, corporations or limited partnerships organized under the laws of this state

or reserved or registered as a foreign limited liability company, foreign corporation or foreign limited partnership under the laws of this state, except that a foreign limited liability company may register under a name which is not such as to distinguish it upon the records of the office of the secretary of state from the name of other limited liability companies, corporations or limited partnerships organized under the laws of this state or reserved or registered as a foreign limited liability company, foreign corporation or foreign limited partnership under the laws of this state if:

(1) Written consent is obtained from the other *domestic or foreign* limited liability company, corporation or limited partnership and filed with the secretary of state; or

(2) it indicates as a means of identification and in its advertising within this state, the state in which the *foreign* limited liability company was formed, and the application sets forth this condition.

(b) Each foreign limited liability company shall have and maintain in the state of Kansas:

(1) A registered office which may but need not be its place of business in the state of Kansas; and

(2) a resident agent for service of process on the limited liability company, which agent may be an individual resident of the state of Kansas, a domestic corporation, a domestic limited partnership, a domestic limited liability company, a domestic business trust, or a foreign corporation, foreign limited partnership, foreign limited liability company or foreign business trust authorized to do business in the state of Kansas whose business office is identical with the limited liability company's registered office.

(c) A resident agent may change the address of the registered office of the foreign limited liability companies for which the resident agent is resident agent to another address in the state of Kansas by: (1) Paying the fee required by this act; (2) filing with the secretary of state a certificate executed by the resident agent, setting forth the names of all the foreign limited liability companies represented by the resident agent and the address at which the resident agent has maintained the registered office for each of such foreign limited liability companies; and (3) certifying to the new address to which each such registered office will be changed on a given day and at which the resident agent will thereafter maintain the registered office for each of the foreign limited liability companies recited in the certificate. Upon the filing of the certificate, the secretary of state shall furnish to the resident agent a certified copy of such certificate. Thereafter, or until further change of address, as authorized by law, the registered office in the state of Kansas of each of the foreign limited liability companies recited in the certificate shall be located at the new address of the resident agent of the company given in the certificate. Filing of the certificate shall be considered an amendment of the application of each foreign limited liability company affected by

the certificate, and the foreign limited liability company shall not be required to take any further action with respect thereto, to amend its application. Any resident agent filing a certificate under this section, upon such filing, shall deliver promptly a copy of such certificate to each foreign limited liability company affected thereby. The resident agent shall furnish the secretary of state one additional copy of the certificate for each limited liability company affected.

(d) The resident agent of one or more foreign limited liability companies may resign and appoint a successor resident agent by paying the fee required by this act and filing a certificate with the secretary of state, stating that the resident agent resigns as resident agent for the foreign limited liability company identified in the certificate and giving the name and address of the successor resident agent. There shall be attached to the certificate a statement executed by each affected foreign limited liability company ratifying and approving the change of resident agent. Upon the filing, the successor resident agent shall become the resident agent of those foreign limited liability companies that have ratified and approved the substitution and the successor resident agent's address, as stated in the certificate, shall become the address of each such foreign limited liability company's registered office in the state of Kansas. Filing of the certificate of resignation shall be deemed to be an amendment of the application of each foreign limited liability company affected by the certificate, and the foreign limited liability company shall not be required to take any further action with respect thereto, to amend its application. The resident agent shall furnish the secretary of state one additional copy of the certificate for each limited liability company affected.

(e) The resident agent of one or more foreign limited liability companies may resign without appointing a successor resident agent by paying the fee required by this act and filing a certificate with the secretary of state stating that the resident agent resigns as resident agent for the foreign limited liability companies identified in the certificate, but the resignation shall not become effective until 60 days after the certificate is filed. There shall be attached to the certificate an affidavit that, at least 30 days prior to the date of the filing of the certificate, notice that the resignation of the resident agent was sent by certified or registered mail to each foreign limited liability company for which the resident agent is resigning as resident agent. The affidavit shall be sworn to by the resident agent, if an individual, or the president, a vice-president or the secretary of the resident agent, if a corporation. The affidavit shall state that the notice was sent to the principal office of each of the foreign limited liability companies within or outside the state of Kansas, if known to the resident agent or, if not, to the last known address of the attorney or other individual at whose request the resident agent was appointed for the foreign limited liability company. After receipt of the notice of the resignation of its resident agent, the foreign limited liability company for

which the resident agent was acting shall obtain and designate a new resident agent, to take the place of the resident agent resigning. If a foreign limited liability company fails to obtain and designate a new resident agent within 60 days after the filing by the resident agent of the certificate of resignation, that foreign limited liability company shall not be permitted to do business in the state of Kansas and its registration shall be considered canceled.

Sec. 49. K.S.A. 17-76,124 is hereby amended to read as follows: 17-76,124. If any statement in the application for registration of a foreign limited liability company was false *in any material respect* when made or any arrangements or other facts described have changed, making the application inaccurate in any *material* respect, the foreign limited liability company shall file promptly with the secretary of state a certificate, executed by an authorized person, correcting the statement, together with the fee required by this act.

Sec. 50. K.S.A. 17-76,125 is hereby amended to read as follows: 17-76,125. A foreign limited liability company may cancel its registration by filing with the secretary of state a certificate of cancellation executed by ~~the members~~ *an authorized person*, together with the fee required by this act and the annual report and annual report fee for any tax period which has ended. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited liability company with respect to causes of action arising out of the doing of business in the state of Kansas.

Sec. 51. K.S.A. 17-76,126 is hereby amended to read as follows: 17-76,126. (a) A foreign limited liability company doing business in the state of Kansas may not maintain any action, suit or proceeding in the state of Kansas until it has registered in this state and has paid to the state all fees and penalties for the years, or parts thereof, during which it did business in the state without having registered.

(b) The failure of a foreign limited liability company to register in the state of Kansas does not:

(1) Impair the validity of any contract or act of the foreign limited liability company;

(2) impair the right of any other party to the contract to maintain any action, suit or proceeding on the contract; or

(3) prevent the foreign limited liability company from defending any action, suit or proceeding in any court of the state of Kansas.

(c) A member *or a manager* of a foreign limited liability company is not ~~personally~~ *personally* liable for the *obligations of the* foreign limited liability company solely by reason of the limited liability company's having done business in the state of Kansas without registration.

Sec. 52. K.S.A. 17-76,127 is hereby amended to read as follows: 17-76,127. The district court shall have jurisdiction to enjoin any foreign

limited liability company, or any agent of a foreign limited liability company, from doing any business in the state of Kansas if the foreign limited liability company has failed to register under ~~this act~~ K.S.A. 17-76,120 through 17-76,129, and amendments thereto, or if such foreign limited liability company has secured a certificate from the secretary of state under K.S.A. 17-76,122, and amendments thereto, on the basis of false or misleading representations. The attorney general, upon the attorney general's own motion or upon the relation of proper parties, shall proceed for this purpose by petition in any county in which the foreign limited liability company is doing or has done business.

Sec. 53. K.S.A. 17-76,128 is hereby amended to read as follows: 17-76,128. Subsection ~~(e)~~ (d) of K.S.A. 17-76,128, and amendments thereto, shall be applicable to foreign limited liability companies as if they were domestic limited liability companies.

Sec. 54. K.S.A. 17-76,130 is hereby amended to read as follows: 17-76,130. A member or an assignee of a limited liability company interest may bring an action in the district court in the right of a limited liability company to recover a judgment in its favor if managers or members with authority to do so have refused to bring the action or if an effort to cause those managers or members to bring the action is not likely to succeed.

Sec. 55. K.S.A. 17-76,131 is hereby amended to read as follows: 17-76,131. In a derivative action, the plaintiff must be a member or an assignee of a limited liability company interest at the time of bringing the action and:

(a) At the time of the transaction of which the ~~member~~ plaintiff complains; or

(b) the ~~member's~~ plaintiff's status as a member or an assignee of a limited liability company interest had devolved upon the ~~member~~ plaintiff by operation of law or pursuant to the terms of an operating agreement from a person who was a member or an assignee of a limited liability company interest at the time of the transaction.

Sec. 56. K.S.A. 17-76,133 is hereby amended to read as follows: 17-76,133. If a derivative action is successful, in whole or in part, as a result of a judgment, compromise or settlement of any such action, the ~~district~~ court may award the plaintiff reasonable expenses, including reasonable ~~attorney~~ attorney's fees, from any recovery in any such action or from a limited liability company.

Sec. 57. K.S.A. 17-76,134 is hereby amended to read as follows: 17-76,134. (a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act.

(b) It is the policy of this act to give the maximum effect to the principle of freedom of contract and to the enforceability of operating agreements.

(c) To the extent that, at law or in equity, a member or manager or

other person has duties (including fiduciary duties) and liabilities relating thereto, to a limited liability company or to another member or manager or to another person that is a party to or is otherwise bound by an operating agreement, the member's or manager's or other person's duties may be expanded or restricted or eliminated by provisions in the operating agreement, except that the operating agreement may not eliminate the implied contractual covenant of good faith and fair dealing.

~~(1) any such (d) Unless otherwise provided in an operating agreement, a member or manager or other person acting under an operating agreement shall not be liable to the a limited liability company or to any such other another member or; manager or to another person who is a party to or is otherwise bound by an operating agreement for breach of fiduciary duty for the member's or manager's or other person's good faith reliance on the provisions of the operating agreement; and~~

~~(2) The member's or manager's or other person's duties and liabilities may be expanded or restricted by provisions in an operating agreement.~~

(e) An operating agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties, including fiduciary duties, of a member, manager or other person to a limited liability company or to another member or manager or to another person that is a party to or is otherwise bound by an operating agreement, except that an operating agreement may not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

(f) Unless the context otherwise requires, as used herein, the singular shall include the plural and the plural may refer to only the singular.

(g) K.S.A. 84-9-406 and 84-9-408, and amendments thereto, do not apply to any interest in a limited liability company, including all rights, powers and interests arising under an operating agreement or this act. This provision prevails over K.S.A. 84-9-406 and 84-9-408, and amendments thereto.

(h) Action validly taken pursuant to one provision of this act shall not be deemed invalid solely because it is identical or similar in substance to an action that could have been taken pursuant to some other provision of this act but fails to satisfy one or more requirements prescribed by such other provision.

(i) An operating agreement that provides for the application of Kansas law shall be governed by and construed under the laws of the state of Kansas in accordance with its terms.

Sec. 58. K.S.A. 17-76,136 is hereby amended to read as follows: 17-76,136. (a) The secretary of state shall charge each domestic and foreign limited liability company the following fees:

(1) A fee of \$20 for issuing or filing and indexing any of the following documents:

(A) A certificate of amendment of articles of organization;  
(B) a restated articles of organization;  
(C) a certificate of cancellation;  
(D) a certificate of change of location of registered office or resident agent;

(E) a certificate of merger, *or* consolidation ~~or conversion~~; and  
(F) any certificate, affidavit, agreement or any other paper provided for in this act, for which no different fee is specifically prescribed;

(2) a fee of \$7.50 for each certified copy plus a fee per page, if the secretary of state supplies the copies, in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto;

(3) a fee of \$7.50 for each certificate of good standing and certificate of fact issued by the secretary of state;

(4) a fee of \$5 for a report of record search, but furnishing the following information shall not be considered a record search and no charge shall be made therefor: Name of the limited liability company and the address of its registered office; name and address of the resident agent; the state of the limited liability company's formation; the date of filing of its articles of organization or annual report; and date of expiration; and

(5) for photocopies of instruments on file or prepared by the secretary of state's office and which are not certified, a fee per page in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto.

(b) Every limited liability company hereafter formed in this state shall pay to the secretary of state, at the time of filing its articles of organization, an application and recording fee of \$150.

(c) At the time of filing its application to do business, every foreign limited liability company shall pay to the secretary of state an application and recording fee of \$150.

(d) *The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.*

Sec. 59. K.S.A. 17-76,137 is hereby amended to read as follows: 17-76,137. All provisions of this act may be ~~amended~~ *altered* from time to time or repealed and all rights of members and managers are subject to this reservation. *Unless expressly stated to the contrary in this act, all amendments of this act shall apply to limited liability companies and members and managers whether or not existing as such at the time of the enactment of any such amendment.*

Sec. 60. K.S.A. 17-76,139 is hereby amended to read as follows: 17-76,139. (a) Every limited liability company organized under the laws of this state shall make an annual report in writing to the secretary of state,

stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

- (1) The name of the limited liability company; and
- (2) a list of the members owning at least 5% of the capital of the *limited liability* company, with the post office address of each.

(b) Every foreign limited liability company shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited liability company.

(c) The annual report required by this section shall be dated, ~~signed by a member of the limited liability company under penalty of perjury and forwarded to the~~ *executed by one or more authorized persons, and filed with the* secretary of state. *The execution of such annual report by a person who is authorized by this act to execute such annual report, upon filing such annual report with the secretary of state, constitutes an oath or affirmation, under penalties of perjury that, to the best of such person's knowledge and belief, the facts stated therein are true.* At the time of filing the report, the limited liability company shall pay to the secretary of state an annual report fee in an amount equal to \$40.

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, and the provisions of subsection (a) of K.S.A. 17-7510, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, shall be applicable to the articles of organization of any domestic limited liability company or to the authority of any foreign limited liability company which fails to file its annual report or pay the annual report fee within 90 days of the time prescribed in this section for filing and paying the same. Whenever the articles of organization of a domestic limited liability company or the authority of any foreign limited liability

company are forfeited for failure to file an annual report or to pay the required annual report fee, the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, ~~in the manner and form to be prescribed by the secretary of state pursuant to section 65, and amendments thereto,~~ and paying to the secretary of state all fees, including any penalties thereon, due to the state. ~~The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.~~

~~(c)~~ When reinstatement is effective, it relates back to and takes effect as of the effective date of the forfeiture and the company may resume its business as if the forfeiture had never occurred.

~~(f)~~(e) No limited liability company shall be required to file its first annual report under this act, or pay any annual report fee required to accompany such report, unless such limited liability company has filed its articles of organization or application for authority at least six months prior to the last day of its tax period.

~~(g)~~(f) All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order, or subsection ~~(h)~~ (g). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.

~~(h)~~(g) A copy of such application shall be open to inspection by or disclosure to any person who was a member of such limited liability company during any part of the period covered by the extension.

Sec. 61. K.S.A. 17-76,140 is hereby amended to read as follows: 17-76,140. From and after ~~January 1, 2000~~ July 1, 2014, this act shall be applicable to all limited liability companies formed in Kansas, whether formed before or after such date.

Sec. 62. K.S.A. 2013 Supp. 17-76,143 is hereby amended to read as follows: 17-76,143. (a) An operating agreement may establish or provide for the establishment of one or more designated series of members, managers or limited liability company interests having separate rights, powers or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations, and to the extent provided in the operating agreement, any such series may have a separate business purpose or investment objective.

(b) Notwithstanding anything to the contrary set forth in this section or under other applicable law, in the event that an operating agreement

establishes or provides for the establishment of one or more series, and if the records maintained for any such series account for the assets associated with such series separately from the other assets of the limited liability company, or any other series thereof, and if the operating agreement so provides, and if notice of the limitation on liabilities of a series as referenced in this subsection is set forth in the articles of organization of the limited liability company and if the limited liability company has filed a certificate of designation for each series which is to have limited liability under this section, then the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series shall be enforceable against the assets of such series only, and not against the assets of the limited liability company generally or any other series thereof, and, unless otherwise provided in the operating agreement, none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the limited liability company generally or any other series thereof shall be enforceable against the assets of such series. The fact that the articles of organization contain the foregoing notice of the limitation on liabilities of a series and a certificate of designation for a series is on file in the office of the secretary of state shall constitute notice of such limitation on liabilities of a series. A series with limited liability shall be treated as a separate entity to the extent set forth in the articles of organization. Each series with limited liability may, in its own name, contract, hold title to assets, grant security interests, sue and be sued and otherwise conduct business and exercise the powers of a limited liability company under this act. The limited liability company and any of its series may elect to consolidate their operations as a single taxpayer to the extent permitted under applicable law, elect to work cooperatively, elect to contract jointly or elect to be treated as a single business for purposes of qualification to do business in this or any other state. Such elections shall not affect the limitation of liability set forth in this section except to the extent that the series have specifically accepted joint liability by contract.

(c) Except in the case of a foreign limited liability company that has adopted an assumed name pursuant to K.S.A. 17-76,123, and amendments thereto, the name of the series with limited liability must contain the entire name of the limited liability company and be distinguishable from the names of the other series set forth in the articles of organization. In the case of a foreign limited liability company that has adopted an assumed name pursuant to K.S.A. 17-76,123, and amendments thereto, the name of the series with limited liability must contain the entire name under which the foreign limited liability company has been admitted to transact business in this state.

(d) Upon the filing of the certificate of designation with the secretary of state setting forth the name of each series with limited liability, the series' existence shall begin, and copies of the filed certificate of desig-

nation marked with the filing date shall be conclusive evidence, except as against the state, that all conditions precedent required to be performed have been complied with and that the series has been or shall be legally organized and formed under this act. If different from the limited liability company, the certificate of designation for each series shall list the names of the members if the series is member managed or the names of the managers if the series is manager managed. The name of a series with limited liability under subsection (b) may be changed by filing with the secretary of state a certificate of designation identifying the series whose name is being changed and the new name of such series. If not the same as the limited liability company, the names of the members of a member managed series or of the managers of a manager managed series may be changed by filing a new certificate of designation with the secretary of state. A series with limited liability under subsection (b) may be dissolved by filing with the secretary of state a certificate of designation identifying the series being dissolved or by the dissolution of the limited liability company as provided in subsection (m). Certificates of designation may be executed by the limited liability company or any manager, person or entity designated in the operating agreement for the limited liability company.

(e) A series of a limited liability company will be deemed to be in good standing as long as the limited liability company is in good standing.

(f) The ~~registered~~ *resident* agent and registered office for the limited liability company in Kansas shall serve as the agent and office for service of process in Kansas for each series.

(g) An operating agreement may provide for classes or groups of members or managers associated with a series having such relative rights, powers and duties as the operating agreement may provide, and may make provision for the future creation of additional classes or groups of members or managers associated with the series having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members or managers associated with the series.

(h) A series may be managed by either the member or members associated with the series or by a manager or managers chosen by the members of such series, as provided in the operating agreement. Unless otherwise provided in an operating agreement, the management of a series shall be vested in the members associated with such series.

(i) An operating agreement may grant to all or certain identified members or managers or a specified class or group of the members or managers associated with a series the right to vote separately or with all or any class or group of the members or managers associated with the series, on any matter. An operating agreement may provide that any member or class or group of members associated with a series shall have no voting rights.

(j) Except to the extent modified in this section, the provisions of this act which are generally applicable to limited liability companies, their managers, members and transferees shall be applicable to each particular series with respect to the operation of such series.

(k) Except as otherwise provided in an operating agreement, any event under this act or in an operating agreement that causes a manager to cease to be a manager with respect to a series shall not, in itself, cause such manager to cease to be a manager of the limited liability company or with respect to any other series thereof.

(l) Except as otherwise provided in an operating agreement, any event under this act or an operating agreement that causes a member to cease to be associated with a series shall not, in itself, cause such member to cease to be associated with any other series or terminate the continued membership of a member in the limited liability company or cause the termination of the series, regardless of whether such member was the last remaining member associated with such series.

(m) Except to the extent otherwise provided in the operating agreement, a series may be dissolved and its affairs wound up without causing the dissolution of the limited liability company. The dissolution of a series established in accordance with subsection (b) shall not affect the limitation on liabilities of such series provided by subsection (b). A series is terminated and its affairs shall be wound up upon the dissolution of the limited liability company under article 76 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

(n) If a limited liability company with the ability to establish a series does not register to do business in a foreign jurisdiction for itself and certain of its series, a series of a limited liability company may itself register to do business as a limited liability company in the foreign jurisdiction in accordance with the laws of the foreign jurisdiction.

(o) If a foreign limited liability company, as permitted in the jurisdiction of its organization, has established a series having separate rights, powers or duties and has limited the liabilities of such series so that the debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a particular series are enforceable against the assets of such series only, and not against the assets of the limited liability company generally or any other series thereof, or so that the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the limited liability company generally or any other series thereof are not enforceable against the assets of such series, then the limited liability company, on behalf of itself or any of its series, or any of its series on their own behalf may register to do business in the state in accordance with the provisions of K.S.A. 17-76,121, and amendments thereto. The limitation of liability shall be so stated on the application for admission as a foreign limited liability company and a certificate of designation shall be filed for each series being registered to do business in

the state by the limited liability company. Unless otherwise provided in the operating agreement, the debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a particular series of such a foreign limited liability company shall be enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally or any other series thereof and none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to such a foreign limited liability company generally or any other series thereof shall be enforceable against the assets of such series.

New Sec. 63. When the articles of organization of any limited liability company formed under this act shall be canceled by the filing of a certificate of cancellation pursuant to K.S.A. 17-7675, and amendments thereto, the district court, on application of any creditor, member or manager of the limited liability company, or any other person who shows good cause therefor, at any time, may either appoint one or more of the managers of the limited liability company to be trustees, or appoint one or more persons to be receivers, of and for the limited liability company, to take charge of the limited liability company's property, and to collect the debts and property due and belonging to the limited liability company, with the power to prosecute and defend, in the name of the limited liability company, or otherwise, all such suits as may be necessary or proper for the purposes aforesaid, and to appoint an agent or agents under them, and to do all other acts which might be done by the limited liability company, if in being, that may be necessary for the final settlement of the unfinished business of the limited liability company. The powers of the trustees or receivers may be continued as long as the district court shall think necessary for the purposes aforesaid.

New Sec. 64. Notwithstanding the occurrence of an event set forth in subsections (a)(1) through (a)(4) of K.S.A. 17-76,116, and amendments thereto, the limited liability company shall not be dissolved and its affairs shall not be wound up if, prior to the filing of a certificate of cancellation with the secretary of state, the limited liability company is continued, effective as of the occurrence of such event, pursuant to the affirmative vote or written consent of all remaining members of the limited liability company or the personal representative of the last remaining member of the limited liability company if there is no remaining member, and any other person whose approval is required under the operating agreement to revoke a dissolution pursuant to this section, except that if the dissolution was caused by a vote or written consent, the dissolution shall not be revoked unless each member and other person, or their respective personal representatives, who voted in favor of, or consented to, the dissolution has voted or consented in writing to continue the limited liability company. If there is no remaining member of the limited liability com-

pany and the personal representative of the last remaining member votes in favor of or consents to the continuation of the limited liability company, such personal representative shall be required to agree in writing to the admission of the personal representative of such member or its nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member.

New Sec. 65. (a) A domestic limited liability company whose articles of organization or a foreign limited liability company whose authority to do business has been canceled pursuant to subsection (d) or (e) of K.S.A. 17-7666 or subsection (e) of 17-76,123, and amendments thereto, or whose articles of organization or authority to do business has been forfeited pursuant to subsection (d) of K.S.A. 17-76,139, and amendments thereto, may be reinstated by filing with the secretary of state a certificate of reinstatement accompanied by the payment of the fee required by subsection (d) of K.S.A. 17-76,136, and amendments thereto, and payment of the annual report fees due under subsection (c) of K.S.A. 17-76,139, and amendments thereto, and all penalties and interest thereon due at the time of the cancellation or forfeiture of its articles of organization or authority to do business. The certificate of reinstatement shall set forth:

(1) The name of the limited liability company at the time its articles of organization or authority to do business was canceled or forfeited and, if such name is not available at the time of reinstatement, the name under which the limited liability company is to be reinstated;

(2) the address of the limited liability company's registered office in the state of Kansas and the name and address of the limited liability company's resident agent in the state of Kansas;

(3) a statement that the certificate of reinstatement is filed by one or more persons authorized to execute and file the certificate of reinstatement to reinstate the limited liability company; and

(4) any other matters the persons executing the certificate of reinstatement determine to include therein.

(b) The certificate of reinstatement shall be deemed to be an amendment to the articles of organization or application for registration of the limited liability company, and the limited liability company shall not be required to take any further action to amend its articles of organization or application for registration under K.S.A. 17-7674 or 17-76,124, and amendments thereto, with respect to the matters set forth in the certificate of reinstatement.

(c) Upon the filing of a certificate of reinstatement, a limited liability company shall be reinstated with the same force and effect as if its articles of organization or authority to do business had not been canceled or forfeited pursuant to subsection (d) or (e) of K.S.A. 17-7666, and amend-

ments thereto, subsection (e) of K.S.A. 17-76,123, and amendments thereto, or subsection (d) of K.S.A. 17-76,139, and amendments thereto. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed by the limited liability company, its members, managers, employees and agents during the time when its articles of organization or authority to do business was canceled or forfeited pursuant to subsection (d) or (e) of K.S.A. 17-7666, and amendments thereto, subsection (e) of K.S.A. 17-76,123, and amendments thereto, or subsection (d) of K.S.A. 17-76,139, and amendments thereto, with the same force and effect and to all intents and purposes as if the articles of organization or authority to do business had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the limited liability company at the time its articles of organization or authority to do business was canceled or forfeited pursuant to subsection (d) or (e) of K.S.A. 17-7666, and amendments thereto, subsection (e) of K.S.A. 17-76,123, and amendments thereto, or subsection (d) of K.S.A. 17-76,139, and amendments thereto, or which were acquired by the limited liability company following the cancellation or forfeiture of its articles of organization or authority to do business pursuant to subsection (d) or (e) of K.S.A. 17-7666, and amendments thereto, subsection (e) of K.S.A. 17-76,123, and amendments thereto, or subsection (d) of K.S.A. 17-76,139, and amendments thereto, and which were not disposed of prior to the time of its reinstatement, shall be vested in the limited liability company after its reinstatement as fully as they were held by the limited liability company at, and after, as the case may be, the time its articles of organization or authority to do business was canceled or forfeited pursuant to subsection (d) or (e) of K.S.A. 17-7666, and amendments thereto, subsection (e) of K.S.A. 17-76,123, and amendments thereto, or subsection (d) of K.S.A. 17-76,139, and amendments thereto. After its reinstatement, the limited liability company shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its members, managers, employees and agents prior to its reinstatement as if its articles of organization or authority to do business had at all times remained in full force and effect.

Sec. 66. K.S.A. 2013 Supp. 84-9-406 is hereby amended to read as follows: 84-9-406. (a) **Discharge of account debtor; effect of notification.** Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge the account debtor's obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge the account debtor's obligation by pay-

ing the assignee and may not discharge the obligation by paying the assignor.

(b) **When notification ineffective.** Subject to subsection (h), notification is ineffective under subsection (a):

(1) If it does not reasonably identify the rights assigned;

(2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) **Proof of assignment.** Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) **Term restricting assignment generally ineffective.** Except as otherwise provided in subsection (e), *subsection (g) of K.S.A. 17-76,134*, K.S.A. 84-2a-303 and K.S.A. 2013 Supp. 84-9-407, and amendments thereto, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) **Inapplicability of subsection (d) to certain sales.** Subsection (d) does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under K.S.A. 2013 Supp. 84-9-610, and amendments thereto, or an acceptance of collateral under K.S.A. 2013 Supp. 84-9-620, and amendments thereto.

(f) **Legal restrictions on assignment generally ineffective.** Except as otherwise provided in *subsection (g) of K.S.A. 17-76,134*, K.S.A.

84-2a-303 and K.S.A. 2013 Supp. 84-9-407, and amendments thereto, and subject to subsections (h) and (i), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) **Subsection (b)(3) not waivable.** Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) **Rule for individual under other law.** This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) **Inapplicability to health-care-insurance receivable.** This section does not apply to an assignment of a health-care-insurance receivable.

(j) **Section prevails over specified inconsistent law.** This section prevails over any inconsistent provisions of any laws, rules, and regulations.

Sec. 67. K.S.A. 2013 Supp. 84-9-408 is hereby amended to read as follows: 84-9-408. (a) **Term restricting assignment generally ineffective.** Except as otherwise provided in subsection (b) and subsection (g) of K.S.A. 17-76,134, and amendments thereto, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of ter-

mination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) **Applicability of subsection (a) to sales of certain rights to payment.** Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under K.S.A. 2013 Supp. 84-9-610, and amendments thereto, or an acceptance of collateral under K.S.A. 2013 Supp. 84-9-620, and amendments thereto.

(c) **Legal restrictions on assignment generally ineffective.** *Except as otherwise provided in and subsection (g) of K.S.A. 17-76,134, and amendments thereto,* a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) **Limitation on ineffectiveness under subsections (a) and (c).** To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than this article but is ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) Is not enforceable against the person obligated on the promissory note or the account debtor;

(2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials fur-

nished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) **Section prevails over specified inconsistent law.** This section prevails over any inconsistent provisions of any laws, rules, and regulations of this state.

Sec. 68. K.S.A. 17-7662, 17-7664, 17-7666, 17-7668, 17-7670, 17-7671, 17-7672, 17-7673, 17-7674, 17-7676, 17-7677, 17-7679, 17-7680, 17-7683, 17-7686, 17-7687, 17-7688, 17-7689, 17-7690, 17-7691, 17-7693, 17-7695, 17-7697, 17-7698, 17-76,100, 17-76,103, 17-76,104, 17-76,105, 17-76,106, 17-76,107, 17-76,110, 17-76,112, 17-76,113, 17-76,114, 17-76,115, 17-76,116, 17-76,117, 17-76,118, 17-76,119, 17-76,121, 17-76,121a, 17-76,122, 17-76,123, 17-76,124, 17-76,125, 17-76,126, 17-76,127, 17-76,128, 17-76,130, 17-76,131, 17-76,133, 17-76,134, 17-76,136, 17-76,137, 17-76,139 and 17-76,140 and K.S.A. 2013 Supp. 17-7663, 17-7675, 17-7678, 17-7681, 17-7682, 17-76,143, 84-9-406 and 84-9-408 are hereby repealed.

Sec. 69. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2014.

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## CHAPTER 41

### HOUSE BILL No. 2444

AN ACT concerning the Kansas uniform trust code; relating to spendthrift provisions; amending K.S.A. 58a-502 and repealing the existing section.

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

Section 1. K.S.A. 58a-502 is hereby amended to read as follows: 58a-502. (a) A spendthrift provision is valid.

(b) A term of a trust providing that the interest of a beneficiary is held subject to a “spendthrift trust,” or words of similar import, is sufficient to restrain both voluntary and involuntary transfer of the beneficiary’s interest.

(c) A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in this

article, a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary.

(d) *Except as provided in subsection (e), irrespective of whether ~~or not~~ a the trust ~~contains~~ has a spendthrift provision, a creditor of a beneficiary may not compel a distribution to a beneficiary that is subject to the trustee's discretion, even if: (1) ~~The discretion standard of distribution is expressed in the form of a standard for distribution; or~~ and (2) the trustee has abused ~~the~~ the trustee's discretion.*

(e) *If a beneficiary is or was serving as sole trustee and the standard of distribution with respect to such beneficiary is not in the form of an ascertainable standard relating to such beneficiary's health, education, support or maintenance, a creditor shall have the right to: (1) Compel any distribution the beneficiary, while serving as sole trustee, either is presently authorized to make to such beneficiary or was authorized to make to such beneficiary and did not make; and (2) attach such beneficiary's beneficial interest in the trust with respect to any present or future discretionary distributions to such beneficiary, in the absence of a spendthrift provision precluding such attachment.*

~~(e)~~(f) This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

Sec. 2. K.S.A. 58a-502 is hereby repealed.

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

Approved April 10, 2014.

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## CHAPTER 42

SENATE BILL No. 254  
(Amended by Chapter 117)

AN ACT concerning certain administrative rules and regulations; relating to the medical assistance recovery program; relating to the children's health insurance program; amending K.S.A. 38-2002 and K.S.A. 2013 Supp. 39-709 and repealing the existing sections.

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

Section 1. K.S.A. 38-2002 is hereby amended to read as follows: 38-2002. (a) The secretary of ~~social and rehabilitation services~~ *health and environment* shall adopt rules and regulations as necessary to implement and administer the provisions of this act.

(b) *All rules and regulations adopted on and after July 1, 2013, and prior to July 1, 2014, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the*

*secretary of health and environment until revised, amended, revoked or nullified pursuant to law.*

Sec. 2. K.S.A. 2013 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for aid for families with dependent children, for food stamp assistance and for any other assistance provided through the Kansas department for children and families under which federal moneys are expended, the secretary for children and families shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) *Assistance to families with dependent children.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as aid to families with dependent children. Where husband and wife are living together both shall register for work under the program requirements for aid to families with dependent children in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.

(c) *Aid to families with dependent children; assignment of support rights and limited power of attorney.* By applying for or receiving aid to families with dependent children such applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such

applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. In any case in which an order for child support has been established and the legal custodian and obligee under the order surrenders physical custody of the child to a caretaker relative without obtaining a modification of legal custody and support rights on behalf of the child are assigned pursuant to this section, the surrender of physical custody and the assignment shall transfer, by operation of law, the child's support rights under the order to the secretary on behalf of the state. Such assignment shall be of all accrued, present or future rights to support of the child surrendered to the caretaker relative. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant, recipient or obligee. By applying for or receiving aid to families with dependent children, or by surrendering physical custody of a child to a caretaker relative who is an applicant or recipient of such assistance on the child's behalf, the applicant, recipient or obligee is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full.

(d) *Eligibility requirements for general assistance, the cost of which is not shared by the federal government.* (1) General assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d).

(A) To qualify for general assistance in any form a needy person must have insufficient income or resources to provide a reasonable subsistence compatible with decency and health and, except as provided for transitional assistance, be a member of a family in which a minor child or a pregnant woman resides or be unable to engage in employment. The secretary shall adopt rules and regulations prescribing criteria for establishing when a minor child may be considered to be living with a family and whether a person is able to engage in employment, including such factors as age or physical or mental condition. Eligibility for general assistance, other than transitional assistance, is limited to families in which a minor child or a pregnant woman resides or to an adult or family in which all legally responsible family members are unable to engage in employment. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited

by law. The secretary in determining need of any applicant for or recipient of general assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of general assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or a minor stepchild if the stepchild is living with such individual. In determining the need of an individual, the secretary may provide for income and resource exemptions.

(B) To qualify for general assistance in any form a needy person must be a citizen of the United States or an alien lawfully admitted to the United States and must be residing in the state of Kansas.

(2) General assistance in the form of transitional assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d), but who do not meet the criteria prescribed by rules and regulations of the secretary relating to inability to engage in employment or are not a member of a family in which a minor or a pregnant woman resides.

(3) In addition to the other requirements prescribed under this subsection (d), the secretary shall adopt rules and regulations which establish community work experience program requirements for eligibility for the receipt of general assistance in any form and which establish penalties to be imposed when a work assignment under a community work experience program requirement is not completed without good cause. The secretary may adopt rules and regulations establishing exemptions from any such community work experience program requirements. A first time failure to complete such a work assignment requirement shall result in ineligibility to receive general assistance for a period fixed by such rules and regulations of not more than three calendar months. A subsequent failure to complete such a work assignment requirement shall result in a period fixed by such rules and regulations of ineligibility of not more than six calendar months.

(4) If any person is found guilty of the crime of theft under the provisions of K.S.A. 39-720, and amendments thereto, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the provisions of K.S.A. 39-720, and amendments thereto, or the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction. If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud,

such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* (1) When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to subsection (c) of K.S.A. 16-303, and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient.

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of

support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, “public assistance” includes, but is not limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not

return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

*(g) Medical assistance; assignment of rights to medical support and limited power of attorney; recovery from estates of deceased recipients.*

(1) (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303 of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to subsection (d) of K.S.A. 39-756, and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance. Amounts collected pursuant to the assignment of rights to payment for medical care from a third party shall also be retained by the secretary for repayment of the unreimbursed portion of assistance.

*(B) Notwithstanding the provisions of subparagraph (A), the secretary of health and environment, or the secretary's designee, is hereby authorized to and shall exercise any of the powers specified in subparagraph (A) in relation to performance of such secretary's duties pertaining*

*to medical subrogation, estate recovery or any other duties assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.*

(2) The amount of any medical assistance paid after June 30, 1992, under the provisions of subsection (e) is (A) a claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or, if there is no estate, the estate of the surviving spouse, if any, shall be charged for such medical assistance paid to either or both, and (B) a claim against any funds of such recipient or spouse in any account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and amendments thereto. There shall be no recovery of medical assistance correctly paid to or on behalf of an individual under subsection (e) except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of medical assistance without adequate consideration are voidable and may be set aside. Except where there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under subsection (e) is a claim against the estate in any guardianship or conservatorship proceeding. The monetary value of any benefits received by the recipient of such medical assistance under long-term care insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall be a credit against the amount of the claim provided for such medical assistance under this subsection (g). The secretary of *health and environment* is authorized to enforce each claim provided for under this subsection (g). The secretary of *health and environment* shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary of *health and environment* from claims under this subsection (g) shall be deposited in the social welfare fund. The secretary of *health and environment* may adopt rules and regulations for the implementation and administration of the medical assistance recovery program under this subsection (g).

(3) By applying for or receiving medical assistance under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, such individual or such individual's agent, fiduciary, guardian, conservator, representative payee or other person acting on behalf of the individual consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim is limited to the individual's probatable estate as defined by applicable law; and

(B) if an individual receives any medical assistance on or after July 1,

2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) The secretary of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien.

(A) After the death of a recipient of medical assistance, the secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by such recipient.

(B) The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home or other medical institution shall constitute a determination by the department of health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the department of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recipient is discharged, returns home and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous

period of at least 90 days shall be completed prior to dissolution of the lien.

(5) The lien filed by the secretary of health and environment or the secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

- (A) After the death of the surviving spouse of the recipient;
- (B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
- (C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
- (D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

- (A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary of *health and environment* or the secretary's designee;
- (B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure; or
- (C) the value of the real property is consumed by the lien, at which time the secretary of *health and environment* or the secretary's designee may force the sale for the real property to satisfy the lien.

(7) If the secretary for aging and disability services or the secretary of health and environment, or both, or such secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the real property is located within 10 years from the date of the filing of the lien, then the lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(8) Within seven days of receipt of notice by the secretary for children and families or the secretary's designee of the death of a recipient of medical assistance under this subsection, the secretary for children and families or the secretary's designee shall give notice of such recipient's death to the secretary of health and environment or the secretary's designee.

(9) *All rules and regulations adopted on and after July 1, 2013, and prior to July 1, 2014, to implement this subsection shall continue to be*

*effective and shall be deemed to be duly adopted rules and regulations of the secretary of health and environment until revised, amended, revoked or nullified pursuant to law.*

(h) *Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney.* In any case in which the secretary for children and families pays for the expenses of care and custody of a child pursuant to K.S.A. 2013 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a felony conviction or charge shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

(j) If the applicant or recipient of aid to families with dependent children is a mother of the dependent child, as a condition of the mother's eligibility for aid to families with dependent children the mother shall identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any recipient of aid to families with dependent children who fails to cooperate with requirements relating to child support enforcement under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regula-

tions which penalty shall progress to ineligibility for the family after three months of noncooperation.

(k) By applying for or receiving child care benefits or food stamps, the applicant or recipient shall be deemed to have assigned, pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the state only accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food stamps, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary pursuant to this subsection shall cooperate in establishing and enforcing support obligations to the same extent required of applicants for or recipients of aid to families with dependent children.

(l) (1) A program of drug screening for applicants for cash assistance as a condition of eligibility for cash assistance and persons receiving cash assistance as a condition of continued receipt of cash assistance shall be established, subject to applicable federal law, by the secretary for children and families on or before January 1, 2014. Under such program of drug screening, the secretary for children and families shall order a drug screening of an applicant for or a recipient of cash assistance at any time when reasonable suspicion exists that such applicant for or recipient of cash assistance is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, an applicant's or recipient's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the applicant or recipient indicating unlawful use of a controlled substance or controlled substance analog.

(2) Any applicant for or recipient of cash assistance whose drug screening results in a positive test may request that the drug screening

specimen be sent to a different drug testing facility for an additional drug screening. Any applicant for or recipient of cash assistance who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such applicant or recipient who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(3) Any applicant for or recipient of cash assistance who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary for children and families, secretary of labor or secretary of commerce, and a job skills program approved by the secretary for children and families, secretary of labor or secretary of commerce. Subject to applicable federal laws, any applicant for or recipient of cash assistance who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive cash assistance until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of cash assistance may be subject to periodic drug screening, as determined by the secretary for children and families. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from cash assistance for a period of 12 months, or until such recipient of cash assistance completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be terminated from cash assistance, subject to applicable federal law.

(4) If an applicant for or recipient of cash assistance is ineligible for or terminated from cash assistance as a result of a positive test for unlawful use of a controlled substance or controlled substance analog, and such applicant for or recipient of cash assistance is the parent or legal guardian of a minor child, an appropriate protective payee shall be designated to receive cash assistance on behalf of such child. Such parent or legal guardian of the minor child may choose to designate an individual to receive cash assistance for such parent's or legal guardian's minor child, as approved by the secretary for children and families. Prior to the designated individual receiving any cash assistance, the secretary for children and families shall review whether reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog.

(A) In addition, any individual designated to receive cash assistance on behalf of an eligible minor child shall be subject to drug screening at

any time when reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, the designated individual's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the designated individual indicating unlawful use of a controlled substance or controlled substance analog.

(B) Any designated individual whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any designated individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such designated individual who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(C) Upon any positive test for unlawful use of a controlled substance or controlled substance analog, the designated individual shall not receive cash assistance on behalf of the parent's or legal guardian's minor child, and another designated individual shall be selected by the secretary for children and families to receive cash assistance on behalf of such parent's or legal guardian's minor child.

(5) If a person has been convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall thereby become forever ineligible to receive any cash assistance under this subsection unless such conviction is the person's first conviction. First-time offenders convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall become ineligible to receive cash assistance for five years from the date of conviction.

(6) Except for hearings before the Kansas department for children and families or, the results of any drug screening administered as part of the drug screening program authorized by this subsection shall be confidential and shall not be disclosed publicly.

(7) The secretary for children and families may adopt such rules and regulations as are necessary to carry out the provisions of this subsection.

(8) Any authority granted to the secretary for children and families under this subsection shall be in addition to any other penalties prescribed by law.

(9) As used in this subsection:

(A) “Cash assistance” means cash assistance provided to individuals under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant to such statutes.

(B) “Controlled substance” means the same as in K.S.A. 2013 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) “Controlled substance analog” means the same as in K.S.A. 2013 Supp. 21-5701, and amendments thereto.

Sec. 3. K.S.A. 38-2002 and K.S.A. 2013 Supp. 39-709 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2014.

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## CHAPTER 43

### SENATE BILL No. 306

AN ACT concerning insurance companies; relating to investments; amending K.S.A. 40-2a08, 40-2a14, 40-2a28, 40-2b07, 40-2b12 and 40-2b29 and K.S.A. 2013 Supp. 40-2a27 and 40-2b28 and repealing the existing sections.

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

Section 1. K.S.A. 40-2a08 is hereby amended to read as follows: 40-2a08. Any insurance company other than life heretofore or hereafter organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in the ~~common stock equity interests of any corporation~~ *business entity* organized and doing business under the laws of the United States of America, or of any state, district, insular or territorial possession thereof; or of the Dominion of Canada or any province thereof; or of any other country or subdivision thereof; in an amount, based upon cost, not exceeding 15% of its admitted assets ~~or not exceeding the combined capital and surplus, whichever is the lesser,~~ as shown by the company’s last annual report as filed with the state commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed

by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains. Such insurance company may write exchange traded, covered call options on ~~shares~~ *equity interests* it owns and may purchase call options for the sole purpose of closing out a position taken previously with respect to one or more options having been written. The purchase of a call option for any reason other than as a closing transaction and the writing of naked (uncovered) call options are hereby prohibited. Investments in ~~common stocks~~ *equity interests* and the writing of call options shall be further limited as follows: *provided in subsections (a) through (g) except that subsections (a) through (e) shall only apply to an amount that exceeds 7.5% of any insurance company's admitted assets.*

(a) The obligations, if any, shown on the last published annual statement of such ~~corporation~~ *business entity* must be eligible for investment under K.S.A. 40-2a05, and amendments thereto;

(b) cash dividends have been paid during each of the last three years preceding the date of acquisition;

(c) the ~~stock~~ *equity interest* is registered with a national securities exchange regulated under the securities exchange act of 1934, as amended, or is regularly traded on a national or regional basis;

(d) the ~~company~~ *business entity* shall have earnings in three of the last five years preceding the date of acquisition;

(e) ~~investments in common stock in any one corporation shall at no time exceed 2% of the admitted assets of the investing insurance company determined on the basis of the cost of such shares to the insurance company at time of purchase, and at no time shall an insurance company purchase more than 5% of the outstanding shares of stock of any one given corporation at no time shall an insurance company invest in more than 5% of the outstanding equity interests of any one such business entity, nor an amount more than 2% of the investing insurance company's admitted assets in the outstanding equity interests of any one such business entity, determined on the basis of the cost of such equity interests to the insurance company at the time of purchase;~~

(f) ~~stock~~ *an equity interest* owned by an insurance company that is obligated under an unexpired written call option shall be valued at the lesser of the striking price or current market value. For the purposes of this subsection, "striking price" means the price per ~~share~~ *equity interest*, exclusive of selling costs, the company would receive should the call option be exercised by the holder;

(g) the provisions of subsections (b) and (d) shall not apply, if at the time of acquisition:

(1) The issuing ~~corporation~~ *business entity* has net assets of \$10,000,000 or more;

(2) the issuing ~~corporation~~ *business entity* has a net worth of \$1,000,000 or more; and

(3) the issuing ~~corporation~~ *business entity* has an aggregate market value of \$500,000,000 or more.

(h) *As used in this section:*

(1) *“Business entity” includes a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or other similar form of business organization, whether organized for profit or not-for-profit.*

(2) *“Equity interest” means any of the following:*

(A) *Common stock;*

(B) *trust certificate;*

(C) *equity investment in an investment company other than a money market mutual fund permitted under K.S.A. 40-2a22, and amendments thereto;*

(D) *investment in a common trust fund of a bank regulated by a federal or state agency;*

(E) *an ownership interest in minerals, oil or gas, the rights to which have been separated from the underlying fee interest in the real estate where the minerals, oil or gas are located;*

(F) *instruments which are mandatorily, or at the option of the issuer, convertible to equity;*

(G) *limited partnership interests;*

(H) *member interests in limited liability companies;*

(I) *warrants or other rights to acquire equity interests that are created by the person that owns or would issue the equity to be acquired; or*

(J) *any other security representing an ownership interest in a business entity.*

Sec. 2. K.S.A. 40-2a14 is hereby amended to read as follows: 40-2a14. Any insurance company other than life heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in loans secured by collateral consisting of a pledge of bonds, securities, stock or evidences of indebtedness qualified in ~~K.S.A. 40-2a01 to 40-2a08, inclusive; article 2a of chapter 40 of the Kansas Statutes Annotated, and amendments thereto. Provided Except;~~ ~~That~~ the amount of the loan is not in excess of eighty percent (80%) shall not exceed 80% of the market value of the ~~securities—asset securing the loan. Provided further, That~~ ~~In addition,~~ all restrictions, limitations or conditions placed on any ~~security investment authorized within K.S.A. 40-2a01 to 40-2a08, inclusive~~ ~~article 2a of chapter 40 of the Kansas Statutes Annotated, and amendments thereto,~~ shall apply to the collateral ~~securities~~ pledged to the payment of loans authorized in this section.

Sec. 3. K.S.A. 2013 Supp. 40-2a27 is hereby amended to read as follows: 40-2a27. (a) No insurance company shall acquire, directly or indirectly, any medium grade or lower grade obligation of any institution if,

after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by such insurer would exceed 20% of its admitted assets. Within this limitation no more than 10% of its admitted assets shall consist of lower grade obligations; no more than three percent of its admitted assets shall consist of obligations designated “5” or “6” in the valuations of securities manual; and, no more than one percent of its admitted assets shall consist of obligations designated “6” in the valuations of securities manual. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multi-category limits.

(b) No insurer organized under the laws of this state may invest more than one percent of its admitted assets in medium grade obligations issued, guaranteed or insured by any one institution nor may it invest more than one-half of one percent of its admitted assets in lower grade obligations issued, guaranteed or insured by any one institution. In no event, shall such insurer invest more than one percent of its admitted assets in any medium or lower grade obligations issued, guaranteed or insured by any one institution.

(c) Nothing contained in this act shall prohibit an insurer from acquiring any obligations which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to this act on the date on which such insurer committed to purchase that obligation.

(d) Notwithstanding the limitations of subsection (b) an insurer may acquire an obligation of an institution in which the insurer already has one or more obligations, if the obligation is acquired in order to protect an investment previously made in the obligations of the institution, except all such acquired obligations shall not exceed one-half of one percent of the insurer's admitted assets.

(e) Nothing contained in this act shall prohibit an insurer to which this act applies from acquiring an obligation as a result of a restructuring of a medium or lower grade obligation already held or require such insurer to sell or otherwise dispose of any obligation legally acquired prior to the effective date of this act.

(f) Nothing contained in this act shall permit or be construed as permitting an insurer to exceed, alter or otherwise circumvent any of the limitations or restrictions applicable to the investments authorized by ~~K.S.A. 40-2a01 et seq.~~ *article 2a of chapter 40 of the Kansas Statutes Annotated*, and amendments thereto.

~~(g) Notwithstanding the provisions of K.S.A. 40-2a16, and amendments thereto, the total investment in medium and lower grade securities shall not exceed the limitations set forth in this section.~~

~~(h)~~(g) The board of directors of any insurance company organized under the laws of this state which acquires or invests, directly or indirectly, more than two percent of its admitted assets in medium grade and lower

grade obligations, shall adopt a written plan for the making of such investments. The plan, in addition to guidelines with respect to the quality of the issues invested in, shall contain diversification standards acceptable to the commissioner which may include, but not be limited to, standards for issuer, industry, duration, liquidity and geographic location.

Sec. 4. K.S.A. 40-2a28 is hereby amended to read as follows: 40-2a28.

(a) Any insurance company other than life organized under any law of this state may invest, by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof, in asset-backed securities, subject to the following:

(1) To be an admitted asset under this section, an asset-backed security must, at the time of acquisition, be designated “1” or “2” by the national association of insurance commissioners in its most recently published valuations of securities manual or supplement thereto;

(2) the investment in any one issue of asset-backed securities shall not exceed 2% of the admitted assets of the investing insurance company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner. Each issue designated as provided in paragraph (1) shall constitute a single issue regardless of any other obligations or securities issued by the same or any affiliated issuer; ~~and~~

~~(3) the investing company’s aggregate investment in asset-backed securities as provided in this section shall not exceed 20% of the admitted assets of such company, as shown by such company’s last annual report as filed with the commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains.~~

(b) As used in this section:

(1) “Asset-backed security” means any security or other instrument representing or evidencing an interest in, a loan to, a participation in a loan to, or any other right to receive payments from a business entity of any type or form, which has as its primary business activity the acquisition and holding of financial assets, directly or through a trustee, for the benefit of such business entity’s debt or equity holders; *and*

(2) “financial asset” means a single asset or a pool of assets consisting of interest-bearing obligations or other contractual obligations representing or constituting the right to receive payment from the asset or pool of assets.

Sec. 5. K.S.A. 40-2b07 is hereby amended to read as follows: 40-2b07. Any life insurance company organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds,

or any part thereof in the ~~common stock equity interests~~ of any ~~corporation~~ *business entity* organized and doing business under the laws of the United States or any state, or of the District of Columbia, or of the Dominion of Canada or any province of the Dominion of Canada, in an amount, based upon cost, not exceeding 15% of its admitted assets ~~or not exceeding the combined capital and surplus, whichever is the lesser~~, as shown by the company's last annual report as filed with the state commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains. Such life insurance company may write exchange traded, covered call options on ~~shares equity interests~~ it owns and may purchase call options for the sole purpose of closing out a position taken previously with respect to one or more options having been written. The purchase of a call option for any reason other than as a closing transaction and the writing of naked, uncovered, call options are hereby prohibited. Investments in ~~common stocks equity interests~~ and the writing of call options shall be further limited as follows: *provided in subsections (a) through (g) except that subsections (a) through (e) shall only apply to an amount that exceeds 7.5% of a life insurance company's admitted assets.*

(a) The obligations, if any, shown on the last published annual statement of such ~~corporation~~ *business entity* must be eligible for investment under K.S.A. 40-2b05, and amendments thereto;

(b) cash dividends have been paid during each of the last three years preceding the date of acquisition;

(c) the ~~stock equity interest~~ is registered with a national securities exchange regulated under the securities exchange act of 1934, as amended, or is regularly traded on a national or regional basis;

(d) the ~~company business entity~~ shall have earnings in three of the last five years preceding the date of acquisition;

(e) at no time shall an insurance company invest in more than 5% of the ~~total number of the outstanding shares of any one such corporation~~ *outstanding equity interests of any one such business entity*, nor an amount more than 2% of the investing insurance company's admitted assets in ~~shares the outstanding equity interests of any one such corporation~~ *business entity*, determined on the basis of the cost of such ~~shares equity interests~~ to the insurance company at time of purchase;

(f) ~~stock~~ *an equity interest* owned by an insurance company that is obligated under an unexpired written call option shall be valued at the lesser of the striking price or current market value. For the purposes of this subsection, "striking price" means the price per ~~share equity interest~~, exclusive of selling costs, the company would receive should the call option be exercised by the holder;

(g) the provisions of subsections (b) and (d) shall not apply if at the time of acquisition:

(1) The issuing ~~corporation~~ *business entity* has net assets of \$10,000,000 or more;

(2) the issuing ~~corporation~~ *business entity* has a net worth of \$1,000,000 or more; and

(3) the issuing ~~corporation~~ *business entity* has an aggregate market value of \$500,000,000 or more.

(h) *As used in this section:*

(1) “*Business entity*” includes a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or similar form of business organization, whether organized for profit or not-for-profit.

(2) “*Equity interest*” means any of the following:

(A) Common stock;

(B) trust certificate;

(C) *equity investment in an investment company other than a money market mutual fund permitted under K.S.A. 40-2b24, and amendments thereto;*

(D) *investment in a common trust fund of a bank regulated by a federal or state agency;*

(E) *an ownership interest in minerals, oil or gas, the rights to which have been separated from the underlying fee interest in the real estate where the minerals, oil or gas are located;*

(F) *instruments which are mandatorily, or at the option of the issuer, convertible to equity;*

(G) *limited partnership interests;*

(H) *member interests in limited liability companies;*

(I) *warrants or other rights to acquire equity interests that are created by the person that owns or would issue the equity to be acquired; or*

(J) *any other security representing an ownership interest in a business entity.*

Sec. 6. K.S.A. 40-2b12 is hereby amended to read as follows: 40-2b12. Any life insurance company heretofore or hereafter organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in loans secured by collateral consisting of a pledge of bonds, mortgages, securities, stock or evidence of indebtedness qualified in ~~K.S.A. 40-2b01 to 40-2b09, inclusive; article 2b of chapter 40 of the Kansas Statutes Annotated, and amendments thereto. Provided, That Except,~~ the amount of the loan ~~is not in excess of eighty percent (80%) shall not exceed 80% of the market value of the securities; asset securing the loan. And provided further, That~~ In addition, all restrictions, limitations or conditions placed on any ~~security~~ investment

authorized within ~~K.S.A. 40-2b01 to 40-2b09, inclusive~~ *article 2b of chapter 40 of the Kansas Statutes Annotated, and amendments thereto*, shall apply to the collateral securities pledged to the payment of loans authorized in this section.

Sec. 7. K.S.A. 2013 Supp. 40-2b28 is hereby amended to read as follows: 40-2b28. (a) No insurance company shall acquire, directly or indirectly, any medium grade or lower grade obligation of any institution if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by such insurer would exceed 20% of its admitted assets. Within this limitation no more than 10% of its admitted assets shall consist of lower grade obligations; no more than three percent of its admitted assets shall consist of obligations designated “5” or “6” in the valuations of securities manual; and, no more than one percent of its admitted assets shall consist of obligations designated “6” in the valuations of securities manual. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multi-category limits.

(b) No insurer organized under the laws of this state may invest more than one percent of its admitted assets in medium grade obligations issued, guaranteed or insured by any one institution nor may it invest more than one-half of one percent of its admitted assets in lower grade obligations issued, guaranteed or insured by any one institution. In no event, shall such insurer invest more than one percent of its admitted assets in any medium or lower grade obligations issued, guaranteed or insured by any one institution.

(c) Nothing contained in this act shall prohibit an insurer from acquiring any obligations which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to this act on the date on which such insurer committed to purchase that obligation.

(d) Notwithstanding the limitations of subsection (b), an insurer may acquire an obligation of an institution in which the insurer already has one or more obligations, if the obligation is acquired in order to protect an investment previously made in the obligations of the institution, except that all such acquired obligations shall not exceed one-half of one percent of the insurer’s admitted assets.

(e) Nothing contained in this act shall prohibit an insurer to which this act applies from acquiring an obligation as a result of a restructuring of a medium or lower grade obligation already held or require such insurer to sell or otherwise dispose of any obligation legally acquired prior to the effective date of this act.

(f) Nothing contained in this act shall permit or be construed as permitting an insurer to exceed, alter or otherwise circumvent any of the limitations or restrictions applicable to the investments authorized by

~~K.S.A. 40-2b01 et seq., article 2b of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.~~

~~(g) Notwithstanding the provisions of K.S.A. 40-2b13, and amendments thereto, the total investment in medium and lower grade securities shall not exceed the limitations set forth in this section.~~

~~(h)~~(g) The board of directors of any insurance company organized under the laws of this state which acquires or invests, directly or indirectly, more than two percent of its admitted assets in medium grade and lower grade obligations, shall adopt a written plan for the making of such investments. The plan, in addition to guidelines with respect to the quality of the issues invested in, shall contain diversification standards acceptable to the commissioner which may include, but not be limited to, standards for issuer, industry, duration, liquidity and geographic location.

Sec. 8. K.S.A. 40-2b29 is hereby amended to read as follows: 40-2b29. (a) Any life insurance company organized under any law of this state may invest, by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof, in asset-backed securities, subject to the following:

(1) To be an admitted asset under this section, an asset-backed security must, at the time of acquisition, be designated “1” or “2” by the national association of insurance commissioners in its most recently published valuations of securities manual or supplement thereto; and

(2) the investment in any one issue of asset-backed securities shall not exceed 2% of the admitted assets of the life insurance company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner. Each issue designated as provided in paragraph (1) shall constitute a single issue regardless of any other obligations or securities issued by the same or any affiliated issuer; and

~~(3) the life insurance company’s aggregate investment in asset-backed securities as provided in this section shall not exceed 20% of the admitted assets of such company, as shown by such company’s last annual report as filed with the commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains.~~

(b) As used in this section:

(1) “Asset-backed security” means any security or other instrument representing or evidencing an interest in, a loan to, a participation in a loan to, or any other right to receive payments from a business entity of any type or form, which has as its primary business activity the acquisition and holding of financial assets, directly or through a trustee, for the benefit of such business entity’s debt or equity holders; and

(2) “financial asset” means a single asset or a pool of assets consisting

of interest-bearing obligations or other contractual obligations representing or constituting the right to receive payment from the asset or pool of assets.

Sec. 9. K.S.A. 40-2a08, 40-2a14, 40-2a28, 40-2b07, 40-2b12 and 40-2b29 and K.S.A. 2013 Supp. 40-2a27 and 40-2b28 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2014.

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## CHAPTER 44

### SENATE BILL No. 309

AN ACT concerning insurance for qualified professional associations; amending K.S.A. 40-2222a and 40-2222b and K.S.A. 2013 Supp. 40-2222 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 40-2222 is hereby amended to read as follows: 40-2222. (a) Any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the commissioner of insurance unless the person or other entity:

(1) Is a professional association of architects incorporated in Kansas on October 4, 1954, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1986, and complies with K.S.A. 40-2222a, and amendments thereto;

(2) is a professional association of dentists incorporated in Kansas on July 3, 1972, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1985, and complies with K.S.A. 40-2222a, and amendments thereto;

(3) (A) is a trade association of banks incorporated in Kansas on August 9, 1978, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established July 1, 1989, and complies with K.S.A. 40-2222a, and amendments thereto; or

(B) is a trade organization of banks incorporated in Kansas on June 1, 1982, which provides coverage for expenses described herein to

or for members of the association or dependents, and complies with K.S.A. 40-2222a, and amendments thereto;

~~(d)~~(4) is a trade association of truckers incorporated in Kansas on July 1, 1985, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established January 1, 1990, and complies with K.S.A. 40-2222a, and amendments thereto;

~~(e)~~(5) is an association of physicians practicing in the Kansas City metropolitan area, incorporated in Missouri on March 5, 1891, and qualified as a foreign corporation in Kansas on May 19, 1987, which provides coverage for the payment of expenses described herein to or for the members of the association, their employees and dependents through a trust established November 1, 1984, and complies with K.S.A. 40-2222a, and amendments thereto;

(6) *is organized as a farmers' cooperative under the Kansas cooperative marketing act, K.S.A. 17-1601 et seq., and amendments thereto, on January 13, 1983, and is an association of farmers' cooperatives and other like associations operated on a cooperative basis and their affiliated companies, which provides benefits for employees, and family members of such employees, of such associations, and complies with K.S.A. 40-2222a, and amendments thereto;*

~~(f)~~(7) *is any other qualified trade, merchant, retail, or professional association or business league incorporated in Kansas which complies with K.S.A. 40-2222a, and amendments thereto;*

(8) conclusively shows by submission of an appropriate certificate, license, letter or other document issued by the United States department of labor that such person or entity is not subject to Kansas law; or

~~(g)~~(9) conclusively shows that it is subject to the jurisdiction of an agency of this state or the federal government. For purposes of this act, tax exempt status under section 501(c) of the federal internal revenue code of 1986 shall not be deemed to be jurisdiction of the federal government.

(b) *For the purposes of this section, a qualified trade, merchant, retail or professional association or business league shall mean any bona fide trade, merchant, retail or professional association or business league that:*

- (1) *Has been in existence for at least five calendar years; and*
- (2) *is comprised of five or more employers.*

Sec. 2. K.S.A. 40-2222a is hereby amended to read as follows: 40-2222a. At the time the initial application for coverage is taken with respect to new applicants and upon the first renewal, reinstatement or extension of coverage following the effective date of this act with respect to persons previously covered, each association described in ~~subsections (a), (b), (c), (d) and (e)~~ subsection (a) of K.S.A. 40-2222, and amendments thereto, shall provide a written notice stating that:

- (a) The coverage is not provided by an insurance company;
- (b) the plan is not subject to the laws and regulations relating to insurance companies;
- (c) the plan is not under the jurisdiction of the commissioner of insurance; and
- (d) if the plan does not pay medical expenses that are eligible for payment under the plan for any reason, the individuals covered by the plan may be liable for such expenses.

Sec. 3. K.S.A. 40-2222b is hereby amended to read as follows: 40-2222b. (a) As a condition precedent to continuation of the exemption provided by K.S.A. 40-2222, and amendments thereto, each association described in ~~subsections (a), (b), (c), (d) and (e) thereof~~ *subsection (a) of K.S.A. 40-2222, and amendments thereto*, shall, no later than May 1 of each year, pay a tax at the rate of 1% per annum upon the annual Kansas gross premium collected during the preceding calendar year. In the computation of the tax, such associations shall be entitled to deduct any annual Kansas gross premiums returned on account of cancellation or dividends returned to members or expenditures used for the purchase of reinsurance or stop-loss coverage.

(b) Every association subject to taxation under the provisions of this section shall pay the tax imposed and make a return ~~thereof~~ under oath to the commissioner of insurance under such rules and regulations and in such form and manner as the commissioner may prescribe.

Sec. 4. K.S.A. 40-2222a and 40-2222b and K.S.A. 2013 Supp. 40-2222 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2014.

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## CHAPTER 45

### SENATE BILL No. 359°

AN ACT enacting the successor corporation asbestos-related liability fairness act.

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

Section 1. Sections 1 through 7, and amendments thereto, shall be known and may be cited as the successor corporation asbestos-related liability fairness act.

Sec. 2. As used in the successor corporation asbestos-related liability fairness act:

- (a) “Asbestos claim” means the same as in K.S.A. 60-4901, and

amendments thereto. “Asbestos claim” also means any claim for damage or loss caused by the installation, presence or removal of asbestos.

(b) “Corporation” means a corporation for profit, including a domestic corporation organized under the laws of this state or a foreign corporation organized under laws other than the laws of this state.

(c) “Successor” means a corporation that assumes or incurs or has assumed or incurred successor asbestos-related liabilities that is a successor and became a successor before January 1, 1972, or is any of that successor corporation’s successors.

(d) “Successor asbestos-related liabilities” means any liabilities, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due, which are related in any way to asbestos claims and were assumed or incurred by a corporation as a result of or in connection with a merger or consolidation, or the plan of merger or consolidation related to the merger or consolidation with or into another corporation, or that are related in any way to asbestos claims based on the exercise of control or the ownership of stock of the corporation before the merger or consolidation. The term includes liabilities that, after the time of the merger or consolidation for which the fair market value of total gross assets is determined under section 5, and amendments thereto, were or are paid or otherwise discharged, or committed to be paid or otherwise discharged, by or on behalf of the corporation, or by a successor of the corporation, or by or on behalf of a transferor, in connection with settlements, judgments or other discharges in this state or another jurisdiction.

(e) “Transferor” means a corporation from which successor asbestos-related liabilities are or were assumed or incurred.

Sec. 3. (a) The limitations in section 4, and amendments thereto, shall apply to any successor corporation. The limitations of section 4, and amendments thereto, shall not apply to:

(1) Workers’ compensation benefits paid by or on behalf of an employer to an employee under the provisions of chapter 44 of the Kansas Statutes Annotated, and amendments thereto, or a comparable workers’ compensation law of another jurisdiction;

(2) any claim against a corporation that does not constitute a successor asbestos-related liability;

(3) any obligation under the national labor relations act, 29 U.S.C. § 151 et seq., or under any collective bargaining agreement; or

(4) a successor that, after a merger or consolidation, continued in the business of mining asbestos or in the business of selling or distributing asbestos fibers or in the business of manufacturing, distributing, removing or installing asbestos-containing products which were the same or substantially the same as those products previously manufactured, distributed, removed, or installed by the transferor.

Sec. 4. (a) Except as further limited in subsection (b), the cumulative successor asbestos-related liabilities of a successor corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The successor corporation shall not have responsibility for successor asbestos-related liabilities in excess of this limitation.

(b) If the transferor had assumed or incurred successor asbestos-related liabilities in connection with a prior merger or consolidation with a prior transferor, then the fair market value of the total assets of the prior transferor determined as of the time of the earlier merger or consolidation shall be substituted for the limitation set forth in subsection (a) for purposes of determining the limitation of liability of a successor corporation.

Sec. 5. (a) A successor corporation may establish the fair market value of total gross assets for the purpose of the limitations under section 4, and amendments thereto, through any method reasonable under the circumstances, including, but not limited to:

(1) By reference to the going concern value of the assets or to the purchase price attributable to or paid for the assets in an arms-length transaction; or

(2) in the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

(b) Total gross assets include intangible assets.

(c) To the extent total gross assets include any liability insurance that was issued to the transferor whose assets are being valued for purposes of this section, the applicability, terms, conditions and limits of such insurance shall not be affected by this section, nor shall this section otherwise affect the rights and obligations of an insurer, transferor or successor under any insurance contract or any related agreements, including, without limitation, preenactment settlements resolving coverage-related disputes, and the rights of an insurer to seek payment for applicable deductibles, retrospective premiums or self-insured retentions or to seek contribution from a successor for uninsured or self-insured periods or periods where insurance is uncollectible or otherwise unavailable. Without limiting the foregoing, to the extent total gross assets include any such liability insurance, a settlement of a dispute concerning any such liability insurance coverage entered into by a transferor or successor with the insurers of the transferor before July 1, 2014, shall be determinative of the total coverage of such liability insurance to be included in the calculation of the transferor's total gross assets.

Sec. 6. (a) Except as provided in subsections (b), (c) and (d), the fair market value of total gross assets at the time of the merger or consolidation shall increase annually at a rate equal to the sum of:

(1) The prime rate as listed in the first edition of the wall street

journal published for each calendar year since the merger or consolidation, unless the prime rate is not published in that edition of the wall street journal, in which case any reasonable determination of the prime rate on the first day of the year may be used; and

(2) one percent.

(b) The rate described in subsection (a) shall not be compounded.

(c) The adjustment of the fair market value of total gross assets shall continue as provided in subsection (a) until the date the adjusted value is first exceeded by the cumulative amounts of successor asbestos-related liabilities paid or committed to be paid by or on behalf of the successor corporation or a predecessor or by or on behalf of a transferor after the time of the merger or consolidation for which the fair market value of total gross assets is determined.

(d) No adjustment of the fair market value of total gross assets shall be applied to any liability insurance that may be included in the definition of total gross assets by subsection (c) of section 5, and amendments thereto.

Sec. 7. (a) The courts of this state shall construe the provisions of the successor corporation asbestos-related liability fairness act liberally with regard to successors.

(b) The successor corporation asbestos-related liability fairness act shall apply to all asbestos claims filed against a successor on or after July 1, 2014. The successor corporation asbestos-related liability fairness act shall also apply to any pending asbestos claims against a successor in which trial has not commenced as of July 1, 2014, except that any provisions of these sections that would be unconstitutional if applied retroactively shall be applied prospectively.

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

Approved April 10, 2014.

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## CHAPTER 46

### SENATE BILL No. 402

AN ACT concerning the Kansas criminal justice information system committee; amending K.S.A. 2013 Supp. 74-5701, 74-5702, 74-5703, 74-5704 and 74-5706 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 74-5701 is hereby amended to read as follows: 74-5701. (a) There is hereby established the Kansas criminal justice information system committee, ~~referred to in this act as the com-~~

~~mittee~~, to be composed of the following persons or their designated representative: (1) The secretary of administration, ~~who shall serve as chairperson~~; (2) the director of the Kansas bureau of investigation; (3) the superintendent of the Kansas highway patrol; (4) a sheriff as designated by the Kansas sheriff's association; (5) a chief of police as designated by the Kansas association of chiefs of police; (6) the secretary of the Kansas department of corrections; (7) ~~the commissioner of the Kansas juvenile justice authority~~; (8) the judicial administrator of the office of judicial administration; ~~(9)~~(8) a prosecutor as designated by the Kansas county and district attorneys association; ~~(10)~~(9) a court administrator or clerk as designated by the Kansas association of district court clerks and administrators; and ~~(11) an administrator or director of a public 9-1-1 communications center as designated by the Kansas 9-1-1 providers association~~(10) a representative from the Kansas association of public safety communications officials.

(b) *The committee shall elect a chairperson and the secretary of administration shall serve as co-chairperson. The chairperson shall serve for a term of one year. The co-chairperson may cast a vote only in cases of tie votes.*

(c) The committee shall meet, on call of the chairperson, as often as is necessary to carry out the provisions of this ~~act~~*article*. Members of the ~~criminal justice information system~~ committee attending meetings of such committee, or attending a subcommittee meeting thereof authorized by such committee, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(d) *As used in this article, "committee" means the Kansas criminal justice information system committee.*

Sec. 2. K.S.A. 2013 Supp. 74-5702 is hereby amended to read as follows: 74-5702. (a) The committee shall establish, maintain ~~and~~, upgrade *and enhance* the criminal justice information system, by adoption, *management* and enforcement of a minimum standard of computerized ~~data base information exchange, to interconnect each county of the state into a unified electronic information system, with at least one designated outlet or terminal in each county.~~ Such minimum ~~standard of computerized data base information standards~~ shall be established by the committee by ~~rule and regulation~~ *rules and regulations* and may be changed as technology and system management may require.

(b) *The committee shall make available through funds from K.S.A. 74-5707, and amendments thereto, a connection between each county and the state into a unified electronic information system, if the county meets the standards for use of the connection established by the committee by rules and regulations.*

(c) The committee shall approve substantive changes, *as defined by the committee by rules and regulations*, made by any state agency or other

agency to ~~a data base, telecommunications~~ *the electronic information exchange* format, programming or other facilities accessed by, ~~providing or using service components of~~; the criminal justice information system before the changes may be implemented. The committee shall report regularly to the criminal justice coordinating council, established by K.S.A. 74-9501, and amendments thereto. The committee shall inform the council and request its comments regarding proposed rules and regulations, policies and standards proposed by the committee and proposed projects which would expand or modify the criminal justice information system or its services.

(d) The committee is authorized to enter into agreements to lease or purchase such facilities and equipment as may be necessary to establish, operate and maintain such electronic information system, *or as needed to accomplish the operations of the committee*. The committee may designate a specific state agency or group of agencies to provide a specific service or group of services to the system. The cost of establishing, maintaining and upgrading such system, except as otherwise provided in this ~~act~~ *article*, shall be paid for from funds appropriated or made available for such purpose by the legislature. The committee is hereby authorized and directed to accept and use any available ~~federal~~ funds for the establishment, *maintenance*, upgrading and operation of the information system.

(e) The chairperson may appoint subcommittees to assist the committee in its operation.

(f) *Within the limits of appropriations therefor, the committee may appoint a director who shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the committee.*

Sec. 3. K.S.A. 2013 Supp. 74-5703 is hereby amended to read as follows: 74-5703. The board of county commissioners of each county shall establish, maintain and equip at least one outlet or terminal within the county as part of the statewide information system created under this ~~act~~ *article*. Upon application to and written approval of the committee, additional outlets or terminals may be established within a county by the board of county commissioners of such county or by the governing body of any city within such county. Except as otherwise provided in this ~~act~~ *article*, the cost of establishing and upgrading any such outlet or terminal, including the cost of equipment and the cost of connecting it to the statewide system, shall be paid for by the political subdivision so establishing such outlet or terminal from its general fund. The board of county commissioners of each county and the governing body of any city establishing or upgrading an outlet or terminal under this ~~act~~ *article* are hereby authorized and directed to accept and use any available ~~federal~~ funds for the operation of the *criminal justice* information system.

Sec. 4. K.S.A. 2013 Supp. 74-5704 is hereby amended to read as

follows: 74-5704. The committee shall adopt and enforce such rules ~~and~~, regulations *and policies* as are necessary for the establishment, *maintenance*, upgrading and operation of the statewide *criminal justice* information system.

Sec. 5. K.S.A. 2013 Supp. 74-5706 is hereby amended to read as follows: 74-5706. The committee may provide for additional outlets or terminals in any county and for upgrading any outlet or terminal in a county in which there is more than one outlet or terminal. The cost of providing any additional outlet or terminal required under authority of this section and the cost of upgrading any outlet or terminal required under authority of this section shall be paid in accordance with this section as determined by the committee. The committee may determine that the board of county commissioners or the governing body of the city in which any such outlet or terminal is located or to be located shall pay the entire cost thereof, or that the state and such county or city shall share such cost, or that the state shall pay such entire cost. In making such determination the committee is directed to provide that the state shall pay all or part of any costs incurred under this section if the committee is of the opinion that such costs are necessary to maintain or improve the effectiveness of the statewide *criminal justice* information system as a whole.

Sec. 6. K.S.A. 2013 Supp. 74-5701, 74-5702, 74-5703, 74-5704 and 74-5706 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2014.

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## CHAPTER 47

### HOUSE BILL No. 2152

AN ACT concerning the uniform land sales practices act; amending K.S.A. 2013 Supp. 17-12a601 and repealing the existing section; also repealing K.S.A. 58-3301, 58-3302, 58-3303, 58-3304, 58-3305, 58-3306, 58-3307, 58-3308, 58-3309, 58-3310, 58-3311, 58-3312, 58-3313, 58-3315, 58-3316, 58-3317, 58-3318, 58-3319, 58-3320, 58-3321, 58-3322 and 58-3323 and K.S.A. 2013 Supp. 58-3314.

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

Section 1. K.S.A. 2013 Supp. 17-12a601 is hereby amended to read as follows: 17-12a601. (a) *Administration*. (1) This act shall be administered by the securities commissioner of Kansas.

(2) All fees herein provided for shall be collected by the administrator. All salaries and expenses necessarily incurred in the administration of this act shall be paid from the securities act fee fund.

(3) The administrator shall remit all moneys received from all fees,

charges, deposits or penalties which have been collected under this act or other laws of this state regulating the issuance, sale or disposal of securities or regulating dealers in this state ~~or under the uniform land sales practices act~~, to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. In accordance with K.S.A. 75-3170a, and amendments thereto, 10% of each such deposit shall be credited to the state general fund and, except as provided in subsection (d), the balance shall be credited to the securities act fee fund.

(4) On the last day of each fiscal year, the director of accounts and reports shall transfer from the securities act fee fund to the state general fund any remaining unencumbered amount in the securities act fee fund exceeding \$50,000 so that the beginning unencumbered balance in the securities act fee fund on the first day of each fiscal year is \$50,000. All expenditures from the securities act fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by a person or persons designated by the administrator.

(5) All amounts transferred from the securities act fee fund to the state general fund under paragraph (4) are to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.

(b) *Prohibited conduct.* (1) It is unlawful for the administrator or an officer, employee, or designee of the administrator to use for personal benefit or the benefit of others records or other information obtained by or filed with the administrator that are not public under K.S.A. 17-12a607(b), and amendments thereto. This act does not authorize the administrator or an officer, employee, or designee of the administrator to disclose the record or information, except in accordance with K.S.A. 17-12a602, 17-12a607(c), or 17-12a608, and amendments thereto.

(2) Neither the administrator nor any employee of the administrator shall be interested as an officer, director, or stockholder in securing any authorization to sell securities under the provisions of this act.

(c) *No privilege or exemption created or diminished.* This act does not create or diminish a privilege or exemption that exists at common law, by statute or rule, or otherwise.

(d) *Investor education.* (1) The administrator may develop and implement investor education initiatives to inform the public about investing in securities, with particular emphasis on the prevention and detection of securities fraud. In developing and implementing these initiatives, the administrator may collaborate with public and nonprofit organizations with an interest in investor education. The administrator may accept a

grant or donation from a person that is not affiliated with the securities industry or from a nonprofit organization, regardless of whether the organization is affiliated with the securities industry, to develop and implement investor education initiatives. This subsection does not authorize the administrator to require participation or monetary contributions of a registrant in an investor education program.

(2) There is hereby established in the state treasury the investor education fund. Such fund shall be administered by the administrator for the purposes described in subsection (d)(1) and for the education of registrants, including official hospitality. Moneys collected as civil penalties under this act shall be credited to the investor education fund. The administrator may also receive payments designated to be credited to the investor education fund as a condition in settlements of cases arising out of investigations or examinations. All expenditures from the investor education fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by a person or persons designated by the administrator. Two years after the effective date of this act, the administrator shall conduct a review and submit a report to the governor and the legislature concerning the expenditures from the investor education fund and the results achieved from the investor education program.

Sec. 2. K.S.A. 58-3301, 58-3302, 58-3303, 58-3304, 58-3305, 58-3306, 58-3307, 58-3308, 58-3309, 58-3310, 58-3311, 58-3312, 58-3313, 58-3315, 58-3316, 58-3317, 58-3318, 58-3319, 58-3320, 58-3321, 58-3322 and 58-3323 and K.S.A. 2013 Supp. 17-12a601 and 58-3314 are hereby repealed.

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

Approved April 10, 2014.

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## CHAPTER 48

Substitute for HOUSE BILL No. 2424

AN ACT concerning roads and highways; designating the Robert G. (Bob) Bethell interchange; the SGT David Enzbrenner memorial highway; the Pack St Clair highway; the ancient Indian traders trail; the Harper county veterans memorial highway; the Bonnie Huy memorial highway; the Bonnie Sharp memorial interchange; amending K.S.A. 2013 Supp. 68-1051 and repealing the existing section.

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

New Section 1. The junction of K-14 highway and 16<sup>th</sup> road in Rice county is hereby designated as the Representative Robert G. (Bob) Bethell interchange. The secretary of transportation shall place signs

along the highway right-of-way at proper intervals to indicate that the junction of K-14 highway and 16<sup>th</sup> road is the Representative Robert G. (Bob) Bethell interchange, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

New Sec. 2. That portion of K-7 highway from the north city limits of Atchison, north on K-7 highway to the junction of K-7 with United States highway 36 is hereby designated as the SGT David Enzbrenner memorial highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the SGT David Enzbrenner memorial highway, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

New Sec. 3. The portion of United States highway 75 from the northern interchange with United States highway 400, then south to the southern interchange with United States highway 400 is hereby designated as the Pack St Clair highway. The secretary of transportation shall place markers along the highway right-of-way at proper intervals to indicate that the highway is the Pack St Clair highway, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

Sec. 4. K.S.A. 2013 Supp. 68-1051 is hereby amended to read as follows: 68-1051. The portion of United States highway 75 where it enters the state on the Kansas-Nebraska border on the north then south to the junction with K-9, then south from the junction of K-9 with K-62 to the junction of K-62 with K-16 then east to the junction with United States highway 75 then south on United States highway 75 to the southern city limits of Holton, then from the junction of United States highway 75 and N.W. 46<sup>th</sup> street in Shawnee county then south on United States highway 75 to the southern boundary of Osage county, then from the northern boundary of Woodson county south on United States highway 75 to *northern interchange with United States highway 400, then south from the southern interchange with United States highway 400* to the Kansas-

Oklahoma border, is hereby designated the purple heart/combat wounded veterans highway. The secretary of transportation shall place markers along the highway right-of-way at proper intervals to indicate that the highway is the purple heart/combat wounded veterans highway. The secretary of transportation may accept and administer gifts and donations to aid in obtaining suitable highway signs bearing the proper approved inscription.

New Sec. 5. That portion of K-161 highway from the junction of K-161 highway with United States highway 36, north on K-161 highway to the Nebraska state line is hereby designated as the ancient Indian traders trail. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the ancient Indian traders trail, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

New Sec. 6. The portion of United States highway 160 from the junction of United States highway 160 and K-14 highway, then east to the eastern boundary of Harper county, then from the southern junction of United States highway 160 and K-2 highway, then west on United States highway 160 to the western boundary of Harper county is hereby designated as the Harper county veterans memorial highway. The secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the highway is the Harper county veterans memorial highway, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the costs of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

New Sec. 7. The portion of K-96 highway from the junction with interstate highway 135 then east to the junction with interstate highway 35 is hereby designated as the Bonnie Huy memorial highway. The secretary of transportation shall place markers along the highway right-of-way at proper intervals to indicate that the highway is the Bonnie Huy memorial highway, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

New Sec. 8. The junction of interstate highway 635 and metropolitan avenue in Wyandotte county is hereby designated as the Bonnie Sharp memorial interchange. The secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the junction of interstate highway 635 and metropolitan avenue is the Bonnie Sharp memorial interchange, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.

Sec. 9. K.S.A. 2013 Supp. 68-1051 is hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2014.

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## CHAPTER 49

Senate Substitute for HOUSE BILL No. 2146

AN ACT concerning the board of pharmacy; relating to pharmacists, pharmacy technicians and pharmacist interns; amending K.S.A. 65-1626a, 65-1632 and 65-1644 and K.S.A. 2013 Supp. 65-1637b, 65-1643, 65-1645 and 65-1663 and repealing the existing sections.

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

Section 1. K.S.A. 65-1626a is hereby amended to read as follows: 65-1626a. (a) For the purpose of the pharmacy act of the state of Kansas, the following persons shall be deemed to be engaged in the practice of pharmacy:

(1) Persons who publicly profess to be a pharmacist, or publicly profess to assume the duties incident to being a pharmacist and their knowledge of drugs or drug actions, or both; *and*

(2) persons who attach to their name any words or abbreviation indicating that they are a pharmacist licensed to practice pharmacy in Kansas.

(b) (1) "Practice of pharmacy" means the interpretation and evaluation of prescription orders; the compounding, dispensing and labeling of drugs and devices pursuant to prescription orders; the administering of vaccine pursuant to a vaccination protocol; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of prescription drugs and prescription devices and the maintenance of proper records thereof in accordance with law;

consultation with patients and other health care practitioners about the safe and effective use of prescription drugs and prescription devices; *performance of collaborative drug therapy management pursuant to a written collaborative practice agreement with one or more physicians who have an established physician-patient relationship*; and participation in the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy. Nothing in this ~~subsection~~ *section* shall be construed to add any additional requirements for registration or for a permit under the pharmacy act of the state of Kansas or for approval under subsection (g) of K.S.A. 65-1643, and amendments thereto, or to prevent persons other than pharmacists from engaging in drug utilization review, or to require persons lawfully in possession of prescription drugs or prescription devices to meet any storage or record keeping requirements except such storage and record keeping requirements as may be otherwise provided by law or to affect any person consulting with a health care practitioner about the safe and effective use of prescription drugs or prescription devices.

(2) *“Collaborative drug therapy management” means a practice of pharmacy where a pharmacist performs certain pharmaceutical-related patient care functions for a specific patient which have been delegated to the pharmacist by a physician through a collaborative practice agreement. A physician who enters into a collaborative practice agreement is responsible for the care of the patient following initial diagnosis and assessment and for the direction and supervision of the pharmacist throughout the collaborative drug therapy management process. Nothing in this subsection shall be construed to permit a pharmacist to alter a physician’s orders or directions, diagnose or treat any disease, independently prescribe drugs or independently practice medicine and surgery.*

(3) *“Collaborative practice agreement” means a written agreement or protocol between one or more pharmacists and one or more physicians that provides for collaborative drug therapy management. Such collaborative practice agreement shall contain certain specified conditions or limitations pursuant to the collaborating physician’s order, standing order, delegation or protocol. A collaborative practice agreement shall be: (A) Consistent with the normal and customary specialty, competence and lawful practice of the physician; and (B) appropriate to the pharmacist’s training and experience.*

(4) *“Physician” means a person licensed to practice medicine and surgery in this state.*

Sec. 2. K.S.A. 2013 Supp. 65-1637b is hereby amended to read as follows: 65-1637b. (a) The pharmacist shall exercise professional judgment regarding the accuracy, validity and authenticity of any prescription order consistent with federal and state laws and rules and regulations. A

pharmacist shall not dispense a prescription drug if the pharmacist, in the exercise of professional judgment, determines that the prescription is not a valid prescription order.

(b) The prescriber may authorize an agent to transmit to the pharmacy a prescription order orally, by facsimile transmission or by electronic transmission provided that the first and last names of the transmitting agent are included in the order.

(c) (1) A new written or electronically prepared and transmitted prescription order shall be manually or electronically signed by the prescriber. If transmitted by the prescriber's agent, the first and last names of the transmitting agent shall be included in the order.

(2) If the prescription is for a controlled substance and is written or printed from an electronic prescription application, the prescription shall be manually signed by the prescriber prior to delivery of the prescription to the patient or prior to facsimile transmission of the prescription to the pharmacy.

(3) An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to electronic transmission. An electronically prepared and transmitted prescription which is printed following electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

(4) In consultation with industry, the state board of pharmacy shall conduct a study on the issues of electronic transmission of prior authorizations and step therapy protocols. The report on the results of such study shall be completed and submitted to the legislature no later than January 15, 2013.

(5) The board is hereby authorized to conduct pilot projects related to any new technology implementation when deemed necessary and practicable, except that no state moneys shall be expended for such purpose.

(d) An authorization to refill a prescription order or to renew or continue an existing drug therapy may be transmitted to a pharmacist through oral communication, in writing, by facsimile transmission or by electronic transmission initiated by or directed by the prescriber.

(1) If the transmission is completed by the prescriber's agent, and the first and last names of the transmitting agent are included in the order, the prescriber's signature is not required on the fax or alternate electronic transmission.

(2) If the refill order or renewal order differs in any manner from the original order, such as a change of the drug strength, dosage form or directions for use, the prescriber shall sign the order as provided by paragraph (1).

(e) Regardless of the means of transmission to a pharmacy, only a pharmacist or a pharmacist intern shall be authorized to receive a new prescription order from a prescriber or transmitting agent. A pharmacist, a pharmacist intern or a registered pharmacy technician may receive a

refill or renewal order from a prescriber or transmitting agent if such registered pharmacy technician's supervising pharmacist has authorized that function.

(f) A refill is one or more dispensings of a prescription drug or device that results in the patient's receipt of the quantity authorized by the prescriber for a single fill as indicated on the prescription order.

~~(1) A prescription for a prescription drug or device that is not a controlled substance may authorize no more than 12 refills within 18 months following the date on which the prescription is issued.~~

~~(2) A prescription for a schedule III, IV or V controlled substance may authorize no more than five refills within six months following the date on which the prescription is issued.~~

(g) Prescriptions shall only be filled or refilled in accordance with the following requirements:

(1) All prescriptions shall be filled in strict conformity with any directions of the prescriber, except that a pharmacist who receives a prescription order for a brand name drug product may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:

(A) The prescriber, in the case of a prescription ~~manually or electronically signed by the prescriber and prepared on a form containing two signature lines, signs the signature line following,~~ includes the statement "dispense as written" *on the prescription*;

(B) the prescriber, in the case of a written prescription signed by the prescriber, writes in the prescriber's own handwriting "dispense as written" on the prescription;

(C) the prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated; or

(D) the federal food and drug administration has determined that a drug product of the same generic name is not bioequivalent to the prescribed brand name prescription medication.

(h) If a prescription order contains a statement that during any particular time the prescription may be refilled at will, there shall be no limitation as to the number of times that such prescription may be refilled except that it may not be refilled after the expiration of the time specified or one year after the prescription was originally issued, whichever occurs first.

(i) Prescription orders shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be dispensed by the pharmacist. This record, if telephoned by other than the prescriber, shall bear the *full* name of the person so telephoning. Nothing in this section shall be construed as altering or affecting in any way laws of this state or any federal act requiring a written prescription order.

(j) (1) Except as provided in paragraph (2), no prescription shall be refilled unless authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filled by the pharmacist.

(2) A pharmacist may refill a prescription order issued on or after the effective date of this act for any prescription drug except a drug listed on schedule II of the uniform controlled substances act or a narcotic drug listed on any schedule of the uniform controlled substances act without the prescriber's authorization when all reasonable efforts to contact the prescriber have failed and when, in the pharmacist's professional judgment, continuation of the medication is necessary for the patient's health, safety and welfare. Such prescription refill shall only be in an amount judged by the pharmacist to be sufficient to maintain the patient until the prescriber can be contacted, but in no event shall a refill under this paragraph be more than a seven day supply or one package of the drug. However, if the prescriber states on a prescription that there shall be no emergency refilling of that prescription, then the pharmacist shall not dispense any emergency medication pursuant to that prescription. A pharmacist who refills a prescription order under this subsection (j)(2) shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this subsection (j)(2). A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this subsection (j)(2) unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.

(k) If any prescription order contains a provision that the prescription may be refilled a specific number of times within or during any particular period, such prescription shall not be refilled except in strict conformity with such requirements.

(l) Any pharmacist who exercises brand exchange and dispenses a less expensive drug product shall not charge the purchaser more than the regular and customary retail price for the dispensed drug.

(m) Nothing contained in this section shall be construed as preventing a pharmacist from refusing to fill or refill any prescription if in the pharmacist's professional judgment and discretion such pharmacist is of the opinion that it should not be filled or refilled.

Sec. 3. K.S.A. 65-1632 is hereby amended to read as follows: 65-1632. (a) *Except as otherwise provided in this section*, each license to practice as a pharmacist issued by the board, shall expire ~~on June 30 of the year specified by the board for the expiration of the license and shall be renewed on a biennial basis in accordance with this section every two years.~~ *The expiration date shall be established by rules and regulations adopted by the board.* Each application for renewal of a license as a pharmacist

shall be made on a form prescribed and furnished by the board. Except as otherwise provided in this subsection, the application, when accompanied by the renewal fee and received by the executive secretary of the board on or before the date of expiration of the license, shall have the effect of temporarily renewing the applicant's license until actual issuance or denial of the renewal. If at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's license, the board may by emergency order declare that the application for renewal shall not have the effect of temporarily renewing such applicant's license. Every licensed pharmacist shall pay to the secretary of the board a renewal fee fixed by the board as provided in K.S.A. 65-1645, and amendments thereto.

(b) ~~Commencing with the renewal of licenses which expire on June 30, 1998, each license shall be renewed on a biennial basis.~~ To provide for a system of biennial renewal of licenses, the board may provide by rules and regulations that licenses issued or renewed may expire less than two years from the date of issuance or renewal. *License fees may be prorated for licensure periods which are less than biennial in accordance with rules and regulations of the board.*

(c) The board may deny renewal of any license of a pharmacist on any ground which would authorize the board to deny an initial application for licensure or on any ground which would authorize the board to suspend, revoke or place on probation a license previously granted. Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

(d) The payment of the renewal fee by a person who is a holder of a license as a pharmacist shall entitle the person to renewal of license if no grounds exist for denying the renewal of the license and if the person has furnished satisfactory evidence to the board that the person has successfully complied with the rules and regulations of the board relating to continuing professional education. These educational requirements shall be fixed by the board at not less than 20 clock hours nor more than 40 clock hours biennially of a program of continuing education approved by the board. Continuing education hours may be prorated for licensure periods which are less than biennial in accordance with rules and regulations of the board. The maximum number of continuing education hours required by the board to meet the requirements for cancellation of inactive status licensure and renewal of license under subsection (e) or reinstatement of license because of nonpayment of fees under subsection (f) shall not exceed 60.

(e) The payment of the renewal fee by the person who is a holder of a license as a pharmacist but who has not complied with the continuing education requirements fixed by the board, if no grounds exist for denying the renewal of the license other than that the person has not complied with the continuing education requirements fixed by the board, shall en-

title the person to inactive status licensure by the board. No person holding an inactive status license from the board shall engage in the practice of pharmacy in this state. Upon furnishing satisfactory evidence to the board of compliance with the continuing education requirements fixed by the board and upon the payment to the board of all applicable fees, a person holding an inactive status license from the board shall be entitled to cancellation of the inactive status license and to renewal of licensure as a pharmacist.

(f) If the renewal fee for any pharmacist's license has not been paid ~~by August 1~~ *prior to the expiration of the license* of the renewal year, the license is hereby declared void, and no license shall be reinstated except upon payment of any unpaid renewal fee plus a penalty fee fixed by the board as provided in K.S.A. 65-1645, and amendments thereto, and proof satisfactory to the board of compliance with the continuing education requirements fixed by the board. The penalty fee established by this section immediately prior to the effective date of the act shall continue in effect until a different penalty fee is fixed by the board by rules and regulations as provided in K.S.A. 65-1645, and amendments thereto. Payment of any unpaid renewal fee plus a penalty fee and the submission of proof satisfactory to the board of compliance with the continuing education requirements fixed by the board shall entitle the license to be reinstated. The nonpayment of renewal fees by a previously licensed pharmacist for a period exceeding three years shall not deprive the previously licensed pharmacist of the right to reinstate the license upon the payment of any unpaid fees and penalties and upon compliance with the continuing education requirements fixed by the board, except that the board may require such previously licensed pharmacist to take and pass an examination approved by the board for reinstatement as a pharmacist and to pay any applicable application fee.

Sec. 4. K.S.A. 2013 Supp. 65-1643 is hereby amended to read as follows: 65-1643. It shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are

such that it can be operated and maintained without endangering the public health or safety; *and* (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) For any person to manufacture within this state any drugs except under the personal and immediate supervision of a pharmacist or such other person or persons as may be approved by the board after an investigation and a determination by the board that such person or persons is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety; and no person shall manufacture any such drugs without first obtaining a registration so to do from the board. Such registration shall be subject to such rules and regulations with respect to requirements, sanitation and equipment, as the board may from time to time adopt for the protection of public health and safety.

(c) For any person to distribute at wholesale any drugs without first obtaining a registration so to do from the board.

(d) For any person to sell or offer for sale at public auction or private sale in a place where public auctions are conducted, any drugs without first having obtained a registration from the board so to do, and it shall be necessary to obtain the permission of the board in every instance where any of the products covered by this section are to be sold or offered for sale.

(e) For any person to in any manner distribute or dispense samples of any drugs without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to mid-level practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection (f), for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug product in-

tended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in subsection (dd) of K.S.A. 65-1626, and amendments thereto, for the designation of a pharmacy or drugstore.

(g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board.

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a, and amendments thereto and any rules and regulations adopted pursuant thereto.

~~(i) For any person to be a pharmacy student without first obtaining a registration to do so from the board, in accordance with rules and regulations adopted by the board, and paying a pharmacy student registration fee of \$25 to the board.~~

~~(j)~~ For any person to operate a veterinary medical teaching hospital pharmacy without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1662, and amendments thereto and any rules and regulations adopted pursuant thereto.

~~(k)~~(j) For any person to sell or distribute in a pharmacy a controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto, unless:

(1) (A) Such controlled substance is sold or distributed by a licensed pharmacist, a registered pharmacy technician or a pharmacy intern or clerk supervised by a licensed pharmacist;

(B) any person purchasing, receiving or otherwise acquiring any such controlled substance produces a photo identification showing the date of birth of the person and signs a log and enters in the log, or allows the seller to enter in the log, such person's address and the date and time of sale or allows the seller to enter such information into an electronic logging system pursuant to K.S.A. 2013 Supp. 65-16,102, and amendments thereto. The log or database required by the board shall be available for inspection during regular business hours to the board of pharmacy and any law enforcement officer;

(C) the seller determines that the name entered in the log corresponds to the name provided on such identification and that the date and time entered are correct; and

(D) the seller enters in the log the name of the controlled substance and the quantity sold; or

(2) there is a lawful prescription.

~~(k)~~(k) For any pharmacy to allow customers to have direct access to any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto. Such controlled substance shall be placed

behind the counter or stored in a locked cabinet that is located in an area of the pharmacy to which customers do not have direct access.

~~(m)~~(l) A seller who in good faith releases information in a log pursuant to subsection ~~(k)~~(j) to any law enforcement officer is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.

~~(n)~~(m) For any person to sell or lease or offer for sale or lease durable medical equipment without first obtaining a registration from the board, in accordance with rules and regulations adopted by the board, except that this subsection shall not apply to:

- (1) Sales not made in the regular course of the person's business; or
- (2) sales by charitable organizations exempt from federal income tax pursuant to the internal revenue code of 1986, as amended.

Sec. 5. K.S.A. 65-1644 is hereby amended to read as follows: 65-1644. The board may issue duplicate licenses, registrations or permits upon return of the original, or upon a sworn statement that the original has been lost or destroyed, and has not been given away or disposed of to some other person. Applications for such duplicate licenses, registrations and permits and the affidavits required by this section shall be made on forms furnished by the board. The fee for the issuance of a duplicate registration or permit shall ~~be~~ *not exceed* \$1.25 for permits, and \$10 for certificates of registration.

Sec. 6. K.S.A. 2013 Supp. 65-1645 is hereby amended to read as follows: 65-1645. (a) Application for registrations or permits under K.S.A. 65-1643, and amendments thereto, shall be made on a form prescribed and furnished by the board. Applications for registration to distribute at wholesale any drugs shall contain such information as may be required by the board in accordance with the provisions of K.S.A. 65-1655, and amendments thereto. The application shall be accompanied by the fee prescribed by the board under the provisions of this section. When such application and fees are received by the executive secretary of the board on or before the due date, such application shall have the effect of temporarily renewing the applicant's registration or permit until actual issuance or denial of the renewal. However, if at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration or permit, the board may declare, by emergency order, that such application for renewal shall not have the effect of temporarily renewing such applicant's registration or permit. Separate applications shall be made and separate registrations or permits issued for each separate place at which is carried on any of the operations for which a registration or permit is required by K.S.A. 65-1643, and amendments thereto, ~~except that the board may provide for a single registration for a business entity registered to manufacture any drugs or registered to distribute at wholesale any drugs and~~

~~operating more than one facility within the state, or for a parent entity with divisions, subsidiaries or affiliate companies, or any combination thereof, within the state when operations are conducted at more than one location and there exists joint ownership and control among all the entities.~~

(b) The nonrefundable fees required for the issuing of the licenses, registrations or permits under the pharmacy act of the state of Kansas shall be fixed by the board as herein provided, subject to the following:

(1) Pharmacy, new registration not more than \$150, renewal not more than \$125;

(2) pharmacist, new license by examination not more than \$350;

(3) pharmacist, reinstatement application fee not more than \$250;

(4) pharmacist, biennial renewal fee not more than \$200;

(5) pharmacist, evaluation fee not more than \$250;

(6) pharmacist, reciprocal licensure fee not more than \$250;

(7) pharmacist, penalty fee, not more than \$500;

(8) manufacturer, new registration not more than \$500, renewal not more than \$400;

(9) wholesaler, new registration not more than \$500, renewal not more than \$400, except that a wholesaler dealing exclusively in nonprescription drugs, the manufacturing, distributing or dispensing of which does not require registration under the uniform controlled substances act, shall be assessed a fee for registration and reregistration not to exceed \$50;

(10) special auction not more than \$50;

(11) samples distribution not more than \$50, *renewal not more than \$50*;

(12) institutional drug room, new registration not more than \$40, renewal not more than \$35;

(13) retail dealer selling more than 12 different nonprescription drug products, new permit not more than \$12, renewal not more than \$12;

(14) certification of grades for each applicant for examination and registration not more than \$25;

(15) veterinary medical teaching hospital pharmacy, new registration not more than \$40, renewal not more than \$35; or

(16) durable medical equipment registration fee, not more than \$300, *renewal not more than \$300*.

(c) For the purpose of fixing fees, the board may establish classes of retail dealers' permits for retail dealers selling more than 12 different nonprescription drug products, and the board may fix a different fee for each such class of permit.

(d) The board shall determine annually the amount necessary to carry out and enforce the provisions of this act for the next ensuing fiscal year and shall fix by rules and regulations the fees authorized for such year at the sum deemed necessary for such purposes. The fees fixed by the board

under this section immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the board by rules and regulations as provided under this section.

(e) The board may deny renewal of any registration or permit required by K.S.A. 65-1643, and amendments thereto, on any ground which would authorize the board to suspend, revoke or place on probation a registration or permit previously granted pursuant to the provisions of K.S.A. 65-1643, and amendments thereto. Registrations and permits issued under the provisions of K.S.A. 65-1643 and 65-1644, and amendments thereto, shall be conspicuously displayed in the place for which the registration or permit was granted. Such registrations or permits shall not be transferable. All such registrations and permits ~~except retail dealer permits~~ shall expire ~~on June 30 following date of issuance every year. The expiration date shall be established by rules and regulations adopted by the board. Retail dealers' permits shall expire on the last day of February.~~ All registrations and permits shall be renewed annually. ~~Application blanks for Notice of renewal of registrations and permits shall be mailed by the board to each registrant or permittee at least 30 days prior to expiration of the registration or permit. If application for renewal is not made before 30 days after such prior to expiration, the existing registration or permit shall lapse and become null and void on the date of its expiration, and no new registration or permit shall be granted except upon payment of the required renewal fee plus a penalty equal to the renewal fee. Failure of any registrant or permittee to receive such application blank notice of renewal shall not relieve the registrant or permittee from the penalty hereby imposed if the renewal is not made as prescribed.~~

(f) In each case in which a license of a pharmacist is issued or renewed for a period of time less than two years, the board shall prorate to the nearest whole month the license or renewal fee established pursuant to this section.

(g) The board may require that fees paid for any examination under the pharmacy act of the state of Kansas be paid directly to the examination service by the person taking the examination.

Sec. 7. K.S.A. 2013 Supp. 65-1663 is hereby amended to read as follows: 65-1663. (a) It shall be unlawful for any person to function as a pharmacy technician in this state unless such person is registered with the board as a pharmacy technician. Every person registered as a pharmacy technician shall pass ~~an examination~~ *one or more examinations identified and approved by the board within 30 days of the period or periods of time specified by the board after becoming registered.* The board shall adopt rules and regulations *identifying the required examinations, when they must be passed and* establishing the criteria for the required ~~examination~~ *examinations and a passing score scores. The board may include*

*as a required examination any national pharmacy technician certification examination.*

(b) All applications for registration shall be made on a form to be prescribed and furnished by the board. Each application for registration shall be accompanied by a registration fee fixed by the board by rule and regulation ~~of~~ not to exceed \$50.

(c) The board shall take into consideration any felony conviction of an applicant, but such conviction shall not automatically operate as a bar to registration.

(d) *Except as otherwise provided in this subsection, each pharmacy technician registration issued by the board shall expire ~~on October 31 of the year specified by the board~~ every two years. The expiration date shall be established by rules and regulations adopted by the board. To provide for a system of biennial renewal of pharmacy technician registrations, the board may provide by rules and regulations that registrations issued or renewed may expire less than two years from the date of issuance or renewal.* Each applicant for renewal of a pharmacy technician registration shall be made on a form prescribed and furnished by the board and shall be accompanied by a renewal fee fixed by the board by rule and regulation ~~of~~ not to exceed \$25. *Pharmacy technician registration renewal fees may be prorated for registration periods which are less than biennial in accordance with rules and regulations of the board.* Except as otherwise provided in this subsection, the application for registration renewal, when accompanied by the renewal fee and evidence satisfactory to the board that the person has successfully complied with the rules and regulations of the board establishing the requirements for a program of continuing pharmacy technician education and received by the executive secretary of the board on or before the date of expiration of the registration, shall have the effect of temporarily renewing the applicant's registration until actual issuance or denial of the renewal registration. If at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration, the board may by emergency order declare that the application for renewal shall not have the effect of temporarily renewing such applicant's registration. If the renewal fee is not paid ~~by December 1~~ prior to the expiration date of the renewal year, the registration is void.

(e) (1) The board may limit, suspend or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacy technician on any ground, which would authorize the board to take action against the license of a pharmacist under K.S.A. 65-1627, and amendments thereto.

(2) The board may require a physical or mental examination, or both, of a person applying for or registered as a pharmacy technician.

(3) The board may temporarily suspend or temporarily limit the registration of any pharmacy technician in accordance with the emergency

adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action under this section against the registrant and that the registrant's continuation of pharmacy technician functions would constitute an imminent danger to the public health and safety.

(4) Proceedings under this section shall be subject to the Kansas administrative procedure act.

(f) Every registered pharmacy technician, within 30 days of obtaining new employment, shall furnish the board's executive secretary notice of the name and address of the new employer.

(g) Each pharmacy shall at all times maintain a list of the names of pharmacy technicians employed by the pharmacy. A pharmacy technician shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the supervising pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the board, and the supervising pharmacist shall be responsible for the acts and omissions of the pharmacy technician in the performance of the pharmacy technician's duties. The ratio of pharmacy technicians to pharmacists in the prescription area of a pharmacy shall be prescribed by the board by rule and regulation. Any change in the ratio of pharmacy technicians to pharmacists in the prescription area of the pharmacy must be adopted by a vote of no less than six members of the board.

(h) A person holding a pharmacy technician registration shall display such registration in that part of the place of business in which such person is engaged in pharmacy technician activities.

(i) The board shall adopt such rules and regulations as are necessary to ensure that pharmacy technicians are adequately trained as to the nature and scope of their lawful duties.

(j) The board may adopt rules and regulations as may be necessary to carry out the purposes and enforce the provisions of this act.

(k) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 8. (a) It shall be unlawful for any person to function as a pharmacist intern in this state unless such person is registered with the board as a pharmacist intern.

(b) All applications for registration shall be made on a form to be prescribed and furnished by the board. Each application for registration shall be accompanied by a registration fee fixed by the board by rule and regulation not to exceed \$25.

(c) Each pharmacist intern registration issued by the board shall expire six years from the date of issuance.

(d) (1) The board may limit, suspend or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacist

intern on any ground that would authorize the board to take action against the license of a pharmacist under K.S.A. 65-1627, and amendments thereto.

(2) The board may temporarily suspend or temporarily limit the registration of any pharmacist intern in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act, if the board determines that there is cause to believe that grounds exist for disciplinary action under this section against the registrant and that the registrant's continuation of pharmacist intern functions would constitute an imminent danger to the public health and safety.

(3) Proceedings under this section shall be subject to the Kansas administrative procedure act.

(e) Every registered pharmacist intern, within 30 days of obtaining new employment, shall furnish the board's executive secretary notice of the name and address of the new employer.

(f) Each pharmacy shall at all times maintain a list of the names of pharmacist interns employed by the pharmacy. A pharmacist intern shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the supervising pharmacist to determine that the pharmacist intern is in compliance with the applicable rules and regulations of the board, and the supervising pharmacist shall be responsible for the acts and omissions of the pharmacist intern in the performance of the pharmacist intern's duties.

(g) A person holding a pharmacist intern registration shall display such registration in that part of the place of business in which such person is engaged in pharmacist intern activities.

(h) The board shall adopt such rules and regulations as are necessary to ensure that pharmacist interns are adequately trained as to the nature and scope of their lawful duties. The board may adopt rules and regulations as may be necessary to carry out the purposes of and enforce the provisions of this section.

(i) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 9. (a) Not later than 90 days after the effective date of this act, the state board of pharmacy and the state board of healing arts shall appoint a seven-member committee to be known as the collaborative drug therapy management advisory committee for the purpose of promoting consistent regulation and to enhance coordination among such boards with jurisdiction over licensees involved in collaborative drug therapy management. Such committee shall advise and make recommendations to the state board of pharmacy and state board of healing arts on matters relating to collaborative drug therapy management.

(b) The collaborative drug therapy management advisory committee shall consist of seven members: (1) One member of the board of phar-

macy appointed by the board of pharmacy, who shall serve as the non-voting chairperson; (2) three licensed pharmacists appointed by the state board of pharmacy, at least two of whom shall have experience in collaborative drug therapy management; and (3) three persons licensed to practice medicine and surgery appointed by the state board of healing arts, at least two of whom shall have experience in collaborative drug therapy management. The state board of pharmacy shall give consideration to any names submitted by the Kansas pharmacists association when making appointments to the committee. The state board of healing arts shall give consideration to any names submitted by the Kansas medical society when making appointments to the committee. Members appointed to the committee shall serve terms of two years, except that of the four members of the committee first appointed to the committee by the state board of pharmacy, two shall be appointed for terms of two years and two shall be appointed for terms of one year as specified by the state board of pharmacy and that of the three members of the committee first appointed to the committee by the state board of healing arts, two shall be appointed for terms of two years and one shall be appointed for a term of one year as specified by the state board of healing arts. Members appointed to the committee shall serve without compensation. All expenses of the committee shall be equally divided and paid by the state board of pharmacy and state board of healing arts.

(c) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 10. K.S.A. 65-1626a, 65-1632 and 65-1644 and K.S.A. 2013 Supp. 65-1637b, 65-1643, 65-1645 and 65-1663 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2014.

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## CHAPTER 50

### SENATE BILL No. 310

AN ACT concerning grand juries; amending K.S.A. 2013 Supp. 22-3001, 22-3011 and 22-3015 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 22-3001 is hereby amended to read as follows: 22-3001. (a) A majority of the district judges in any judicial district may order a grand jury to be summoned in any county in the district when it is determined to be in the public interest.

(b) The district or county attorney in such attorney's county may pe-

tion the chief judge or the chief judge's designee in such district court to order a grand jury to be summoned in the designated county in the district to consider any alleged felony law violation, *including any alleged misdemeanor law violation which arises as part of the same criminal conduct or investigation*. The attorney general in any judicial district may petition the chief judge or the chief judge's designee in such judicial district to order a grand jury to be summoned in the designated county in the district to consider any alleged felony law violation, *including any alleged misdemeanor law violation which arises as part of the same criminal conduct or investigation*, if authorized by the district or county attorney in such judicial district or if jurisdiction is otherwise authorized by law. The chief judge or the chief judge's designee in the district court of the county shall then consider the petition and, if it is found that the petition is in proper form, as set forth in this subsection, shall order a grand jury to be summoned within 15 days after receipt of such petition.

(c) (1) A grand jury shall be summoned in any county within 60 days after a petition praying therefor is presented to the district court, bearing the signatures of a number of electors equal to 100 plus 2% of the total number of votes cast for governor in the county in the last preceding election.

(2) The petition, upon its face, shall state the name, address and phone number of the person filing the petition, the subject matter of the prospective grand jury, a reasonably specific identification of areas to be inquired into and sufficient general allegations to warrant a finding that such inquiry may lead to information which, if true, would warrant a true bill of indictment.

(3) The petition shall be in substantially the following form:

The undersigned qualified electors of the county of \_\_\_\_\_ and state of Kansas hereby request that the district court of \_\_\_\_\_ county, Kansas, within 60 days after the filing of this petition, cause a grand jury to be summoned in the county to investigate alleged violations of law and to perform such other duties as may be authorized by law.

The signatures to the petition need not all be affixed to one paper, but each paper to which signatures are affixed shall have substantially the foregoing form written or printed at the top thereof. Each signer shall add to such signer's signature such signer's place of residence, giving the street and number or rural route number, if any. One of the signers of each paper shall verify upon oath that each signature appearing on the paper is the genuine signature of the person whose name it purports to be and that such signer believes that the statements in the petition are true. The petition shall be filed in the office of the clerk of the district court who shall forthwith transmit it to the county election officer, who shall determine whether the persons whose signatures are affixed to the petition are qualified electors of the county. Thereupon, the county election officer shall return the petition to the clerk of the district court,

together with such election officer's certificate stating the number of qualified electors of the county whose signatures appear on the petition and the aggregate number of votes cast for all candidates for governor in the county in the last preceding election. The judge or judges of the district court of the county shall then consider the petition and, if it is found that the petition is in proper form and bears the signatures of the required number of electors, a grand jury shall be ordered to be summoned.

(4) After a grand jury is summoned pursuant to this subsection, but before it begins deliberations, the judge or judges of the district court of the county in which the petition is presented shall provide instructions to the grand jury regarding its conduct and deliberations, which instructions shall include, but not be limited to, the following:

(A) You have been impaneled as a grand jury pursuant to a citizens' petition filed in this court, signed by (insert number) qualified electors of this county, stating (insert the subject matter described in the petition, including a reasonably specific identification of the areas to be inquired into and the allegations sufficient to warrant a finding that the grand jury's inquiry may lead to information which, if true, would warrant a true bill of indictment). You are charged with making inquiry with regard to this subject matter and determining whether the facts support allegations warranting a true bill of indictment.

(B) The person filing the citizens' petition filed in this court must be the first witness you call for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition.

(C) You may, with the approval of this court, employ special counsel and investigators, and incur such other expense for services and supplies as you and this court deem necessary. Any special counsel or investigator you employ shall be selected by a majority vote of your grand jury. You may make such selection only after hearing testimony from the person who filed the citizens' petition. You may utilize the services of any special counsel or investigator you employ instead of, or in addition to, the services of the prosecuting attorney.

(D) If any witness duly summoned to appear and testify before you fails or refuses to obey, compulsory process will be issued by this court to enforce the witness' attendance.

(E) If any witness appearing before you refuses to testify or to answer any questions asked in the course of the witness' examination, you shall communicate that fact to this court in writing, together with a statement regarding the question the witness refuses to answer. This court will determine and inform you of whether the witness is bound to answer or not. However, no witness appearing before you can be compelled to make any statement which will incriminate such witness.

(F) Any person may file a written request with the prosecuting attorney or with the foreman of the grand jury and request to testify or retestify in an inquiry before a grand jury or to appear before a grand

jury. Any written request shall include a summary of such person's written testimony.

(C) At the conclusion of your inquiry and determination, you will return either a no bill of indictment or a true bill of indictment.

(d) The grand jury shall consist of 15 members and shall be drawn, qualified and summoned in the same manner as petit jurors for the district court. Twelve members thereof shall constitute a quorum. The judge or judges ordering the grand jury shall direct that a sufficient number of legally qualified persons be summoned for service as grand jurors.

Sec. 2. K.S.A. 2013 Supp. 22-3011 is hereby amended to read as follows: 22-3011. (a) An indictment may be found only on the concurrence of 12 or more grand jurors. When an indictment is found, the presiding juror shall endorse thereon "a true bill" and shall sign the presiding juror's name as presiding juror.

(b) When 12 or more grand jurors do not concur in finding an indictment, the presiding juror shall certify that the indictment is "not a true bill."

(c) Indictments found by the grand jury shall be presented by its presiding juror, in the jury's presence, to the court and shall be filed and remain as records of the court.

(d) *A grand jury impaneled pursuant to subsection (c) of K.S.A. 22-3001, and amendments thereto, may request that the attorney general prosecute the case arising from an indictment found by such grand jury if, in the opinion of the grand jury, the prosecuting attorney would not diligently prosecute such case. The court shall notify the attorney general of such request and the attorney general may prosecute such case.*

Sec. 3. K.S.A. 2013 Supp. 22-3015 is hereby amended to read as follows: 22-3015. (a) *Matters of form, time, place, names.* At any time before or during trial, the court may, upon application of the people and with notice to the defendant and opportunity for the defendant to be heard, order the amendment of an indictment with respect to defects, errors or variances from the proof relating to matters of form, time, place and names of persons when such amendment does not change the substance of the charge, and does not prejudice the defendant on the merits. Upon ordering an amendment, the court, for good cause shown, may grant a continuance to provide the defendant adequate opportunity to prepare a defense.

(b) *Prohibition as to matters of substance, exception.*

(1) An indictment shall not be amended as to the substance of the offense charged, *except as provided further.*

(2) *The court may, upon application of the people and with notice to the defendant and opportunity for the defendant to be heard, order the substance of an indictment to be amended for the limited purpose of effecting a change of plea by the defendant pursuant to a plea agreement*

*reached between the defendant and the prosecuting attorney. The provisions of this paragraph shall apply only to an indictment found by a grand jury impaneled pursuant to subsection (a) or (b) of K.S.A. 22-3001, and amendments thereto, and shall not apply to an indictment found by a grand jury impaneled pursuant to subsection (c) of K.S.A. 22-3001, and amendments thereto.*

(c) This section shall be part of and supplemental to article 30 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 4. K.S.A. 2013 Supp. 22-3001, 22-3011 and 22-3015 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2014.

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## CHAPTER 51

### HOUSE BILL No. 2463

AN ACT concerning terrorism and illegal use of weapons of mass destruction; relating to civil liability for acts of terrorism; furtherance of terrorism; asset seizure and forfeiture; amending K.S.A. 2013 Supp. 21-5423 and 60-4104 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 60-4104b.

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

New Section 1. (a) A person injured as a result of the conduct of another that would constitute conduct prohibited by K.S.A. 2013 Supp. 21-5421 or 21-5423, and amendments thereto, may bring an action in an appropriate state court against the person or persons who engaged in such conduct.

(b) In any action brought under this section, a prevailing plaintiff shall recover up to three times the actual damages such person sustained or \$10,000, whichever is greater, and the cost of the suit, including reasonable attorney's fees.

(c) Notwithstanding any other provision of law, any action commenced under this section shall be filed within five years after the later of:

(1) The date of discovery of the violation of K.S.A. 2013 Supp. 21-5421 or 21-5423, and amendments thereto; or

(2) the conclusion of a related criminal case.

(d) At the victim's request, the attorney general may pursue cases on behalf of any Kansas victim under this section. All damages obtained shall go to the victim, and the attorney general may seek reasonable attorney's fees and costs.

(e) Any action brought under this section shall be subject to the provisions of K.S.A. 74-7312, and amendments thereto.

Sec. 2. K.S.A. 2013 Supp. 21-5423 is hereby amended to read as follows: 21-5423. (a) It is unlawful for any person to receive or acquire property, or engage in transactions involving property, with the intent to commit or further the commission of any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto. The provisions of this subsection do not apply to any transaction between an individual and that individual's counsel necessary to preserve that individual's right to representation, as guaranteed by section 10 of the bill of rights of the constitution of the state of Kansas and by the sixth amendment to the United States constitution. This exception does not create any presumption against or prohibition of the right of the state to seek and obtain forfeiture of any proceeds derived from a violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto.

(b) It is unlawful for any person to intentionally invest, conceal, distribute, transport or maintain an interest in or otherwise make available any property which that person knows is intended to be used to commit or further the commission of any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto.

(c) It is unlawful for any person to intentionally direct, plan, organize, initiate, finance, manage, supervise or facilitate the transportation or distribution of property which that person knows is intended to be used to commit or further the commission of *any violation of* K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto.

(d) It is unlawful for any person to conduct a financial transaction involving property with the intent to commit or further the commission of any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the property which that person knows is intended to be used to commit or further the commission of any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto, or to avoid a transaction reporting requirement under state or federal law.

(e) *It is unlawful to raise, solicit, collect or provide material support or resources with the intent that such will be used, in whole or in part, to plan, prepare, carry out or aid in:*

(1) *Any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto;*

(2) *the hindering of the prosecution of any violation of K.S.A. 2013 Supp 21-5421 or 21-5422, and amendments thereto; or*

(3) *the concealment of, or the escape from, any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto.*

(f) Violation of this section is a severity level 1, person felony.

~~(f)~~(g) As used in this section:

(1) “Property” means anything of value, and includes any interest in property, including any benefit, privilege, claim or right with respect to anything of value, whether real or personal, tangible or intangible; ~~and~~

(2) “transaction” includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase, or sale of any monetary instrument, use of a safe deposit box, or any other acquisition or disposition of property whatever means effected; *and*

(3) “*hindering of the prosecution of terrorism*” shall include, but is not limited to, the following:

(A) *Harboring or concealing a person who is known or believed by the offender to have committed any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto;*

(B) *warning a person who is known or believed by the offender to have committed any violations of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto, of impending discovery or apprehension, except that the provisions of this subparagraph do not apply to any transaction between an individual and that individual’s counsel necessary to preserve that individual’s right to representation, as guaranteed by section 10 of the bill of rights of the constitution of the state of Kansas and by the sixth amendment to the United States constitution; and*

(C) *suppressing any physical evidence which might aid in the discovery or apprehension of a person who is known or believed by the offender to have committed any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto.*

Sec. 3. K.S.A. 2013 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

(a) All offenses which statutorily and specifically authorize forfeiture;

(b) violations involving controlled substances, as described in K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto;

(c) theft, as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto;

(d) criminal discharge of a firearm, as defined in subsections (a)(1) and (a)(2) of K.S.A. 2013 Supp. 21-6308, and amendments thereto;

(e) gambling, as defined in K.S.A. 2013 Supp. 21-6404, and amendments thereto, and commercial gambling, as defined in subsection (a)(1) of K.S.A. 2013 Supp. 21-6406, and amendments thereto;

(f) counterfeiting, as defined in K.S.A. 2013 Supp. 21-5825, and amendments thereto;

(g) unlawful possession or use of a scanning device or reencoder, as described in K.S.A. 2013 Supp. 21-6108, and amendments thereto;

(h) medicaid fraud, as described in K.S.A. 2013 Supp. 21-5925 through 21-5934, and amendments thereto;

(i) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;

(j) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;

(k) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;

(l) *terrorism, as defined in K.S.A. 2013 Supp. 21-5421, and amendments thereto, illegal use of weapons of mass destruction, as defined in K.S.A. 2013 Supp. 21-5422, and amendments thereto, and furtherance of terrorism or illegal use of weapons of mass destruction, as described in K.S.A. 2013 Supp. 21-5423, and amendments thereto;*

(m) unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A. 2013 Supp. 21-6414, and amendments thereto;

(n) unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A. 2013 Supp. 21-6417, and amendments thereto;

(o) selling sexual relations, as defined in K.S.A. 2013 Supp. 21-6419, and amendments thereto, promoting the sale of sexual relations, as defined in K.S.A. 2013 Supp. 21-6420, and amendments thereto, and buying sexual relations, as defined in K.S.A. 2013 Supp. 21-6421, and amendments thereto;

(p) human trafficking and aggravated human trafficking, as defined in K.S.A. 2013 Supp. 21-5426, and amendments thereto;

(q) violations of the banking code, as described in K.S.A. 9-2012, and amendments thereto;

(r) mistreatment of a dependent adult, as defined in K.S.A. 2013 Supp. 21-5417, and amendments thereto;

(s) giving a worthless check, as defined in K.S.A. 2013 Supp. 21-5821, and amendments thereto;

(t) forgery, as defined in K.S.A. 2013 Supp. 21-5823, and amendments thereto;

(u) making false information, as defined in K.S.A. 2013 Supp. 21-5824, and amendments thereto;

(v) criminal use of a financial card, as defined in K.S.A. 2013 Supp. 21-5828, and amendments thereto;

(w) unlawful acts concerning computers, as described in K.S.A. 2013 Supp. 21-5839, and amendments thereto;

(x) identity theft and identity fraud, as defined in subsections (a) and (b) of K.S.A. 2013 Supp. 21-6107, and amendments thereto;

(y) electronic solicitation, as defined in K.S.A. 2013 Supp. 21-5509, and amendments thereto;

(z) felony violations of fleeing or attempting to elude a police officer, as described in K.S.A. 8-1568, and amendments thereto;

(aa) commercial sexual exploitation of a child, as defined in K.S.A. 2013 Supp. 21-6422, and amendments thereto; ~~and~~

(bb) violations of the Kansas racketeer influenced and corrupt organization act, as described in K.S.A. 2013 Supp. 21-6329, and amendments thereto;

(cc) *indecent solicitation of a child and aggravated indecent solicitation of a child, as defined in K.S.A. 2013 Supp. 21-5508, and amendments thereto; and*

(dd) *sexual exploitation of a child, as defined in K.S.A. 2013 Supp. 21-5510, and amendments thereto.*

Sec. 4. K.S.A. 2013 Supp. 21-5423, 60-4104 and 60-4104b are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2014.

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## CHAPTER 52

### SENATE BILL No. 424

AN ACT concerning hospital liens; relating to notice and amount of claims; requirements; amending K.S.A. 65-407 and repealing the existing section.

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

Section 1. K.S.A. 65-407 is hereby amended to read as follows: 65-407. No such lien shall be effective unless a written notice ~~containing an itemized statement of all~~ *setting forth the amount of all of the hospital's claims, the name and address of the injured person, the date of the accident, and the name and location of the hospital, and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received,* shall be filed in the office of the clerk of the district court of the county in which such hospital is located, prior to the payment of any moneys to such injured person, ~~his~~ *such person's* attorneys or legal representatives, as compensation for such injuries; ~~nor unless the hospital shall also send, by regis-~~

~~tered or certified mail, postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries sustained prior to the payment of any moneys to such injured person, his attorneys or legal representative, as compensation for such injuries. Such hospital shall mail a copy of such notice to any insurance carrier which has insured such person, firm or corporation against such liability, if the name and address shall be known. Such hospital shall also send, by registered or certified mail, a copy of such notice to such patient upon whom emergency medical or other service has been performed, if the name and address of such patient shall be known to the hospital or can with reasonable diligence be ascertained.~~

Sec. 2. K.S.A. 65-407 is hereby repealed.

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

Approved April 10, 2014.

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## CHAPTER 53

### HOUSE BILL No. 2602

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; increasing the percentage of unclassified employees allowed to be employed by the system; amending K.S.A. 2013 Supp. 74-4908 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 74-4908 is hereby amended to read as follows: 74-4908. (1) The board shall appoint an executive director and shall establish the compensation therefor. Subject to the direction of the board, the executive director shall be the managing officer of the system and as such shall have charge of the office, records and supervision and direction of the employees of the system. The executive director shall be in the unclassified service under the Kansas civil service act.

(2) The executive director shall recommend to the board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this act and the directions of the board. Upon approval of the board, the executive director is authorized to employ such persons in accordance with the Kansas civil service act.

(3) The board of trustees shall select and employ or retain a qualified actuary who shall serve at its pleasure as its technical advisor on matters regarding operation of the system. The actuary shall:

(a) Make an annual valuation of the liabilities and reserves of the system, and a determination of the contributions required by the system

to discharge its liabilities and administrative costs under this act, and recommend to the board rates of employer contributions required to establish and maintain the system on an actuarial reserve basis. Such recommended employer contributions shall not be based on any other purpose outside of the needs of the system as prescribed by this subsection.

(b) As soon after the effective date as practicable and once every three years thereafter, make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover and interest, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation.

(c) Cooperate with and provide any assistance to the actuary, the legislative coordinating council and the joint committee on pensions, investments and benefits related to the independent actuarial audit and evaluation as provided in K.S.A. 74-4908a, and amendments thereto.

(d) Perform such other duties as may be assigned by the board.

(4) The attorney general of the state shall furnish such legal services as may be necessary upon receipt of a request from the board, except that legal services may be furnished by other counsel as the board in its discretion deems necessary and prudent.

(5) The board shall employ or retain qualified investment counsel or counselors or may negotiate with a trust company to assist and advise in the judicious investment of funds as herein provided.

(6) Subject to limitations imposed pursuant to this subsection and otherwise provided by law, the board may appoint such officers and employees necessary to advise and assist the board in the performance of powers, duties and functions relating to the management and investment of the fund and in such other matters as may be directed by the board. Such appointed officers and employees shall be in the unclassified service under the Kansas civil service act. ~~Not more than 25% of the total number of officers and employees appointed or employed by the system shall be in the unclassified service.~~ The provisions of this subsection shall not affect the classified status of any employee in the classified service under the Kansas civil service act who is employed on the date immediately preceding the effective date of this act *July 1, 2014*. The board is authorized to assign any new or vacant position created by the system on or after the effective date of this act to the classified or unclassified service under the Kansas civil service act. The compensation of such appointed officers and employees in the unclassified service under the Kansas civil service act shall be established by the board.

(7) The board may establish a program for the paying of bonus awards to unclassified officers and employees pursuant to procedures established by the board.

Sec. 2. K.S.A. 2013 Supp. 74-4908 is hereby repealed.

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

Approved April 10, 2014.

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## CHAPTER 54

Substitute for HOUSE BILL No. 2002

AN ACT concerning the division of post audit; relating to certain financial and security audits; amending K.S.A. 2013 Supp. 46-1106, 46-1118 and 74-4921 and repealing the existing sections; also repealing K.S.A. 74-8707.

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

New Section 1. (a) At least once every three years, there shall be conducted a security audit of the Kansas lottery. Any security audit conducted pursuant to this section shall include a comprehensive study and evaluation of all aspects of security in the operation of such state agency. The auditor to conduct a security audit shall be specified in accordance with K.S.A. 46-1122, and amendments thereto. If the legislative post audit committee specifies under such statute that a person other than the post auditor is to perform all or part of such audit work, such person shall be selected and shall perform such audit work as provided in the applicable provisions of K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-1125 through 46-1127, and amendments thereto. The person selected to perform a security audit shall be experienced in security procedures, including, but not limited to, computer and systems security. A contract to conduct a security audit required by this subsection shall not be awarded until a background investigation is conducted by the executive director of the Kansas lottery on the person or firm selected to perform the audit. Such background investigation shall include: (1) The vendor to whom the contract is to be awarded; (2) all persons who own a controlling interest in such vendor; and (3) all applicable staff having involvement with the audit.

(b) For the purpose of conducting a security audit under this subsection, a person or a firm selected to perform the security audit shall not be limited to a legal entity permitted by law to engage in practice as a certified public accountant.

Sec. 2. K.S.A. 2013 Supp. 46-1106 is hereby amended to read as follows: 46-1106. (a) (1) A financial-compliance audit shall be conducted each year of the general purpose financial statements prepared by the division of accounts and reports for its annual financial report. This audit shall be conducted in accordance with generally accepted governmental

auditing standards. The resulting written audit report shall be issued as soon after the end of the fiscal year as is practicable.

(2) In addition, once every two years, separate written audit reports on the financial management practices of the office of the state treasurer and the pooled money investment board shall be prepared addressing the adequacy of financial management practices and compliance with applicable state laws. The separate audit of the pooled money investment board also shall include a comparative investment performance review and an analysis of the investment program, including an evaluation of investment policies and practices and of specific investments in the pooled money investment portfolio. The analysis of the specific investments in the pooled money investment portfolio shall review whether such investments meet the investment priorities of safety, liquidity and performance. The performance of such investments shall be measured by comparison to an appropriate market index.

(3) In addition, whenever an individual is first elected or appointed and qualified to the office of the state treasurer, the legislative division of post audit shall conduct a transition audit within two weeks after the date such individual enters upon the duties of the office of the state treasurer. The purpose of the transition audit shall be to review the assets in the custody of the office of the state treasurer for significant discrepancies at the time of the transition. A separate written report shall be prepared for each transition audit.

(4) Copies of the reports of audits conducted pursuant to this subsection (a) shall be furnished to the governor, director of accounts and reports, director of the budget, each state agency, the legislative post audit committee and other persons or agencies as may be required by law or by the specifications of the audit.

(5) Any additional costs associated with preparing the separate additional reports on the office of the state treasurer and the pooled money investment board shall be borne by the office of the state treasurer and the pooled money investment board in accordance with K.S.A. 46-1121, and amendments thereto.

(b) Including financial-compliance audit work conducted as part of the audit conducted pursuant to subsection (a), financial-compliance audit work shall be conducted at each state agency at least once every three years as directed by the legislative post audit committee. Written reports on the results of such auditing shall be furnished to the governor, director of accounts and reports, director of the budget, the state agency which is audited, the legislative post audit committee and such other persons or agencies as may be required by law or by the specifications of the audit.

(c) (1) Books and accounts of the state treasurer and the director of accounts and reports, including the bond register of the state treasurer, may be examined monthly if the legislative post audit committee so de-

termines, and such examination may include detailed checking of every transaction or test checking.

(2) Any person receiving tax information under the provisions of subsection (a) or (b) shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(d) The post auditor shall report immediately in writing to the legislative post audit committee, governor and attorney general whenever it appears in the opinion of the post auditor that there may have occurred any violation of penal statutes or any instances of misfeasance, malfeasance or nonfeasance by a public officer or employee disclosed by any audit or audit work conducted under the legislative post audit act. The post auditor shall furnish the attorney general all information in the possession of the post auditor relative to any report referred to the attorney general. The attorney general shall institute and prosecute civil proceedings against any such delinquent officer or employee, or upon such officer or employee's official bond, or both, as may be needed to recover for the state any funds or other assets misappropriated. The attorney general shall also prosecute such ouster and criminal proceedings as the evidence in the case warrants. Any person receiving tax information under the provisions of this subsection shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(e) The post auditor shall immediately report to the committee on surety bonds and insurance when any audit or audit work conducted under the legislative post audit act discloses a shortage in the accounts of any state agency, officer or employee.

(f) In the discharge of the duties imposed under the legislative post audit act, the post auditor may require state agencies to preserve and make available their accounts, records, documents, vouchers, requisitions, payrolls, canceled checks or vouchers and coupons, and other evidence of financial transactions.

(g) In the discharge of the duties imposed under the legislative post audit act, the post auditor or firm conducting a financial-compliance audit or conducting any other audit or audit work shall have access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, of any person or state agency subject to the legislative post audit act or in the custody of any such person or state agency. Except as otherwise provided in this subsection, the post auditor or firm conducting a financial-compliance audit or other audit or audit work under the legislative post audit act and all employees and former employees of the division of post audit or firm performing a financial-compliance audit or other audit or audit work shall be subject to the same duty of confiden-

tiality imposed by law on any such person or state agency with regard to any such books, accounts, records, files, documents and correspondence, and any information contained therein, and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality. The duty of confidentiality imposed on the post auditor and on firms conducting financial-compliance audits or any other audits or audit work under the legislative post audit act and all employees of the division of post audit and all employees of such firms shall be subject to the provisions of subsection (d), and the post auditor may furnish all such books, accounts, records, files, documents and correspondence, and any information contained therein to the attorney general pursuant to subsection (d). Upon receipt thereof, the attorney general and all assistant attorneys general and all other employees and former employees of the office of attorney general shall be subject to the same duty of confidentiality with the exceptions that any such information contained therein may be disclosed in civil proceedings, ouster proceedings and criminal proceedings which may be instituted and prosecuted by the attorney general in accordance with subsection (d), and any such books, accounts, records, files, documents and correspondence furnished to the attorney general in accordance with subsection (d) may be entered into evidence in any such proceedings. Nothing in this subsection shall be construed to supersede any requirement of federal law.

(h) Any firm or firms which develop information in the course of conducting a financial-compliance audit or other audit or audit work under the legislative post audit act which the post auditor is required to report under subsection (d) or (e) shall immediately report such information to the post auditor. The post auditor shall then make the report required in subsection (d) or (e).

(i) (1) *A financial-compliance audit shall be conducted annually on the accounts and transactions of the Kansas lottery and the Kansas lottery commission, of the Kansas public employees retirement system and of any other state agency as may be required by law. The auditor to conduct this audit work shall be specified in accordance with K.S.A. 46-1122, and amendments thereto. If the legislative post audit committee specifies under such statute that a firm is to perform all or part of such audit work, such firm shall be selected and shall perform such audit work as provided in K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-1125 through 46-1127, and amendments thereto. The audits required pursuant to this subsection shall be conducted in accordance with generally accepted governmental auditing standards, and shall be conducted as soon after the close of the fiscal year as practicable, but shall be completed no later than six months after the close of the fiscal year.*

(2) *The financial-compliance audit of the Kansas public employees retirement system shall include, but not be limited to, a review of alternative investments of the system with any estimates of permanent im-*

*pairments to the value of such alternative investments reported by the system pursuant to K.S.A. 74-4907, and amendments thereto. The financial-compliance audit may include one or more performance audit subjects as directed by the legislative post audit committee. In considering performance audit subjects to be included in any such financial-compliance audit, the legislative post audit committee shall consider recommendations and requests for performance audits, relating to the system or the management thereof, by the joint committee on pensions, investments and benefits or by any other committee or individual member of the legislature. The legislative post audit committee shall specify if one or more performance audit subjects shall be included in such financial-compliance audit, in addition to such other subjects as may be directed to be included in such financial-compliance audit by the legislative post audit committee. Except as otherwise determined by the legislative post audit committee, one or more performance audit subjects specified by the legislative post audit committee shall be included at least once every two fiscal years in such financial-compliance audit. The legislative post audit committee may direct that one or more performance audit subjects are to be included in such financial-compliance audit not more than once during a specific period of three fiscal years, in lieu of once every two fiscal years.*

Sec. 3. K.S.A. 2013 Supp. 46-1118 is hereby amended to read as follows: 46-1118. (a) (1) Except as otherwise provided by statute, whenever the post auditor performs any additional audit work for any state agency to satisfy federal government requirements, and incurs costs in addition to those attributable to the operations of the division of post audit in performance of other duties and responsibilities, the post auditor shall make charges for such additional costs.

(2) Except as otherwise provided by statute, whenever the post auditor performs any audit work for any state agency to satisfy financial-compliance audit requirements prescribed by or pursuant to subsection (a)(1) of K.S.A. 46-1106, and amendments thereto, and incurs costs in addition to those attributable to the operations of the division of post audit in performance of other duties and responsibilities, the post auditor shall make charges for such additional costs.

(3) The legislative post audit committee may authorize the post auditor to perform additional financial-related audit work at the request of a state agency. Upon the authorization and in accordance with the direction of the legislative post audit committee, the post auditor may make charges for costs incurred for the performance of such financial-related audit work.

(4) *The post auditor shall compute the reasonably anticipated cost of providing audits pursuant to section 1, and amendments thereto, subject to review and approval by the contract audit committee. Upon such approval, the state agency that is receiving the audit services shall reimburse*

*the division of post audit for the amount approved by the contract audit committee.*

(5) The furnishing of any such audit services by the division of post audit shall be a transaction between the post auditor and the state agency receiving such services and such transaction shall be settled in accordance with the provisions of K.S.A. 75-5516, and amendments thereto.

(b) All moneys received for reimbursement of the division of post audit under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the audit services fund, which fund is hereby created in the state treasury. All expenditures from the audit services fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the post auditor or a person or persons designated by the post auditor.

Sec. 4. K.S.A. 2013 Supp. 74-4921 is hereby amended to read as follows: 74-4921. (1) There is hereby created in the state treasury the Kansas public employees retirement fund. All employee and employer contributions shall be deposited in the state treasury to be credited to the Kansas public employees retirement fund. The fund is a trust fund and shall be used solely for the exclusive purpose of providing benefits to members and member beneficiaries and defraying reasonable expenses of administering the fund. Investment income of the fund shall be added or credited to the fund as provided by law. All benefits payable under the system, refund of contributions and overpayments, purchases or investments under the law and expenses in connection with the system unless otherwise provided by law shall be paid from the fund. The director of accounts and reports is authorized to draw warrants on the state treasurer and against such fund upon the filing in the director's office of proper vouchers executed by the chairperson or the executive director of the board. As an alternative, payments from the fund may be made by credits to the accounts of recipients of payments in banks, savings and loan associations and credit unions. A payment shall be so made only upon the written authorization and direction of the recipient of payment and upon receipt of such authorization such payments shall be made in accordance therewith. Orders for payment of such claims may be contained on (a) a letter, memorandum, telegram, computer printout or similar writing, or (b) any form of communication, other than voice, which is registered upon magnetic tape, disc or any other medium designed to capture and contain in durable form conventional signals used for the electronic communication of messages.

(2) The board shall have the responsibility for the management of the fund and shall discharge the board's duties with respect to the fund

solely in the interests of the members and beneficiaries of the system for the exclusive purpose of providing benefits to members and such member's beneficiaries and defraying reasonable expenses of administering the fund and shall invest and reinvest moneys in the fund and acquire, retain, manage, including the exercise of any voting rights and disposal of investments of the fund within the limitations and according to the powers, duties and purposes as prescribed by this section.

(3) Moneys in the fund shall be invested and reinvested to achieve the investment objective which is preservation of the fund to provide benefits to members and member beneficiaries, as provided by law and accordingly providing that the moneys are as productive as possible, subject to the standards set forth in this act. No moneys in the fund shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

(4) In investing and reinvesting moneys in the fund and in acquiring, retaining, managing and disposing of investments of the fund, the board shall exercise the judgment, care, skill, prudence and diligence under the circumstances then prevailing, which persons of prudence, discretion and intelligence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, and not in regard to speculation but in regard to the permanent disposition of similar funds, considering the probable income as well as the probable safety of their capital.

(5) Notwithstanding subsection (4): (a) Total investments in common stock may be made in the amount of up to 60% of the total book value of the fund;

(b) the board may invest or reinvest moneys of the fund in alternative investments if the following conditions are satisfied:

(i) The total of the annual net commitment to alternative investments does not exceed 5% of the total market value of investment assets of the fund as measured from the end of the preceding calendar year;

(ii) if in addition to the system, there are at least two other qualified institutional buyers, as defined by section (a)(1)(i) of rule 144A, securities act of 1933;

(iii) the system's share in any individual alternative investment is limited to an investment representing not more than 20% of any such individual alternative investment;

(iv) the system has received a favorable and appropriate recommendation from a qualified, independent expert in investment management or analysis in that particular type of alternative investment;

(v) the alternative investment is consistent with the system's investment policies and objectives as provided in subsection (6);

(vi) the individual alternative investment does not exceed more than

2.5% of the total alternative investments made under this subsection. If the alternative investment is made pursuant to participation by the system in a multi-investor pool, the 2.5% limitation contained in this subsection is applied to the underlying individual assets of such pool and not to investment in the pool itself. The total of such alternative investments made pursuant to participation by the system in any one individual multi-investor pool shall not exceed more than 20% of the total of alternative investments made by the system pursuant to this subsection. Nothing in this subsection requires the board to liquidate or sell the system's holdings in any alternative investments made pursuant to participation by the system in any one individual multi-investor pool held by the system on the effective date of this act, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and be prudent under the standards contained in this section. The 20% limitation contained in this subsection shall not have been violated if the total of such investment in any one individual multi-investor pool exceeds 20% of the total alternative investments of the fund as a result of market forces acting to increase the value of such a multi-investor pool relative to the rest of the system's alternative investments; however, the board shall not invest or reinvest any moneys of the fund in any such individual multi-investor pool until the value of such individual multi-investor pool is less than 20% of the total alternative investments of the fund;

(vii) the board has received and considered the investment manager's due diligence findings submitted to the board as required by subsection (6)(c);

(viii) prior to the time the alternative investment is made, the system has in place procedures and systems to ensure that the investment is properly monitored and investment performance is accurately measured; and

(ix) the total of alternative investments does not exceed 15% of the total investment assets of the fund. The 15% limitation contained in this subsection shall not have been violated if the total of such alternative investments exceeds 15% of the total investment assets of the fund, based on the fund total market value, as a result of market forces acting to increase the value of such alternative investments relative to the rest of the system's investments. However, the board shall not invest or reinvest any moneys of the fund in alternative investments until the total value of such alternative investments is less than 15% of the total investment assets of the fund based on the market value. If the total value of the alternative investments exceeds 15% of the total investment assets of the fund, the board shall not be required to liquidate or sell the system's holdings in any alternative investment held by the system, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and is prudent under the standards contained in this section.

For purposes of this act, "alternative investment" includes a broad

group of investments that are not one of the traditional asset types of public equities, fixed income, cash or real estate. Alternative investments are generally made through limited partnership or similar structures, are not regularly traded on nationally recognized exchanges and thus are relatively illiquid, and exhibit lower correlations with more liquid asset types such as stocks and bonds. Alternative investments generally include, but are not limited to, private equity, private credit, hedge funds, infrastructure, commodities and other investments which have the characteristics described in this paragraph; and

(c) except as otherwise provided, the board may invest or reinvest moneys of the fund in real estate investments if the following conditions are satisfied:

(i) The system has received a favorable and appropriate recommendation from a qualified, independent expert in investment management or analysis in that particular type of real estate investment;

(ii) the real estate investment is consistent with the system's investment policies and objectives as provided in subsection (6); and

(iii) the system has received and considered the investment manager's due diligence findings.

(6) Subject to the objective set forth in subsection (3) and the standards set forth in subsections (4) and (5) the board shall formulate policies and objectives for the investment and reinvestment of moneys in the fund and the acquisition, retention, management and disposition of investments of the fund. Such policies and objectives shall include:

(a) Specific asset allocation standards and objectives;

(b) establishment of criteria for evaluating the risk versus the potential return on a particular investment;

(c) a requirement that all investment managers submit such manager's due diligence findings on each investment to the board or investment advisory committee for approval or rejection prior to making any alternative investment;

(d) a requirement that all investment managers shall immediately report all instances of default on investments to the board and provide the board with recommendations and options, including, but not limited to, curing the default or withdrawal from the investment; and

(e) establishment of criteria that would be used as a guideline for determining when no additional add-on investments or reinvestments would be made and when the investment would be liquidated.

The board shall review such policies and objectives, make changes considered necessary or desirable and readopt such policies and objectives on an annual basis.

(7) The board may enter into contracts with one or more persons whom the board determines to be qualified, whereby the persons undertake to perform the functions specified in subsection (2) to the extent provided in the contract. Performance of functions under contract so

entered into shall be paid pursuant to rates fixed by the board subject to provisions of appropriation acts and shall be based on specific contractual fee arrangements. The system shall not pay or reimburse any expenses of persons contracted with pursuant to this subsection, except that after approval of the board, the system may pay approved investment related expenses subject to provisions of appropriation acts. The board shall require that a person contracted with to obtain commercial insurance which provides for errors and omissions coverage for such person in an amount to be specified by the board, provided that such coverage shall be at least the greater of \$500,000 or 1% of the funds entrusted to such person up to a maximum of \$10,000,000. The board shall require a person contracted with to give a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the board, with corporate surety authorized to do business in this state. Such persons contracted with the board pursuant to this subsection and any persons contracted with such persons to perform the functions specified in subsection (2) shall be deemed to be agents of the board and the system in the performance of contractual obligations.

(8) (a) In the acquisition or disposition of securities, the board may rely on the written legal opinion of a reputable bond attorney or attorneys, the written opinion of the attorney of the investment counselor or managers, or the written opinion of the attorney general certifying the legality of the securities.

(b) The board shall employ or retain qualified investment counsel or counselors or may negotiate with a trust company to assist and advise in the judicious investment of funds as herein provided.

(9) (a) Except as provided in subsection (7) and this subsection, the custody of money and securities of the fund shall remain in the custody of the state treasurer, except that the board may arrange for the custody of such money and securities as it considers advisable with one or more member banks or trust companies of the federal reserve system or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the banks or trust companies for the collection of the principal and interest or other income or of the proceeds of sale. The services provided by the banks or trust companies shall be paid pursuant to rates fixed by the board subject to provisions of appropriation acts.

(b) The state treasurer and the board shall collect the principal and interest or other income of investments or the proceeds of sale of securities in the custody of the state treasurer and pay same when so collected into the fund.

(c) The principal and interest or other income or the proceeds of sale of securities as provided in clause (a) of this subsection (9) shall be reported to the state treasurer and the board and credited to the fund.

(10) The board shall with the advice of the director of accounts and reports establish the requirements and procedure for reporting any and

all activity relating to investment functions provided for in this act in order to prepare a record monthly of the investment income and changes made during the preceding month. The record will reflect a detailed summary of investment, reinvestment, purchase, sale and exchange transactions and such other information as the board may consider advisable to reflect a true accounting of the investment activity of the fund.

(11) The board shall provide for an examination of the investment program annually. The examination shall include an evaluation of current investment policies and practices and of specific investments of the fund in relation to the objective set forth in subsection (3), the standard set forth in subsection (4) and other criteria as may be appropriate, and recommendations relating to the fund investment policies and practices and to specific investments of the fund as are considered necessary or desirable. The board shall include in its annual report to the governor as provided in K.S.A. 74-4907, and amendments thereto, a report or a summary thereof covering the investments of the fund.

~~(12) (a) An annual financial-compliance audit of the system, including any performance audit subjects which are directed to be included in such annual audit by the legislative post audit committee, performance audits of the system as prescribed under the Kansas governmental operations law, and such other audits as are directed by the legislative post audit committee under the Kansas legislative post audit act shall be conducted. The annual financial-compliance audit shall include, but not be limited to, a review of alternative investments of the system with any estimates of permanent impairments to the value of such alternative investments reported by the system pursuant to K.S.A. 74-4907, and amendments thereto.~~

~~(b) In accordance with this subsection (12), the annual financial-compliance audit may include one or more performance audit subjects as directed by the legislative post audit committee. In considering performance audit subjects to be included in any financial-compliance audit conducted pursuant to this subsection (12), the legislative post audit committee shall consider recommendations and requests for performance audits, relating to the system or the management thereof, by the joint committee on pensions, investments and benefits or by any other committee or individual member of the legislature. Commencing with the financial-compliance audit for the fiscal year ending June 30, 1998, the legislative post audit committee shall specify if one or more performance audit subjects shall be included in the financial-compliance audit conducted pursuant to this subsection (12), in addition to such other subjects as may be directed to be included in the financial-compliance audit by the legislative post audit committee. Except as otherwise determined by the legislative post audit committee pursuant to this subsection (12), commencing with the financial-compliance audit for the fiscal year ending June 30, 1998, one or more performance audit subjects specified by the~~

~~legislative post audit committee shall be included at least once every two fiscal years in a financial-compliance audit conducted pursuant to this subsection (12). The legislative post audit committee may direct that one or more performance audit subjects are to be included in a financial-compliance audit conducted pursuant to this subsection (12) not more than once during a specific period of three fiscal years, in lieu of once every two fiscal years.~~

~~(c) The auditor to conduct the financial-compliance audit required pursuant to this subsection (12) shall be specified in accordance with K.S.A. 46-1122, and amendments thereto. If the legislative post audit committee specifies under such statute that a firm, as defined by K.S.A. 46-1112, and amendments thereto, is to perform all or part of the audit work of such audit, such firm shall be selected and shall perform such audit work as provided in K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-1125 through 46-1127, and amendments thereto. The audits required pursuant to this subsection (12) shall be conducted in accordance with generally accepted governmental auditing standards. The financial-compliance audit required pursuant to this subsection (12) shall be conducted as soon after the close of the fiscal year as practicable, but shall be completed no later than six months after the close of the fiscal year. The post auditor shall annually compute the reasonably anticipated cost of providing the financial-compliance audit pursuant to this subsection (12), subject to review and approval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the system shall reimburse the division of post audit for the amount approved by the contract audit committee. The furnishing of the financial-compliance audit pursuant to this subsection (12) shall be a transaction between the legislative post auditor and the system and shall be settled in accordance with the provisions of K.S.A. 75-5516, and amendments thereto.~~

~~(d)(b) Any internal assessment or examination of alternative investments of the system performed by any person or entity employed or retained by the board which evaluates or monitors the performance of alternative investments shall be reported to the legislative post auditor so that such report may be reviewed in accordance with the annual financial-compliance audits conducted pursuant to this subsection (12) K.S.A. 46-1106, and amendments thereto.~~

~~(e)(c) The board shall prepare and submit an alternative investment report to the joint committee on pensions, investments and benefits prior to January 1, 2016. Such report shall include a review of alternative investments of the system with an emphasis on the effects of changes in law pursuant to this act and includes specific investment cost and market value information of each individual alternative investment.~~

Sec. 5. K.S.A. 74-8707 and K.S.A. 2013 Supp. 46-1106, 46-1118 and 74-4921 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 10, 2014.

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## CHAPTER 55

### HOUSE BILL No. 2491

AN ACT concerning the Kansas tort claims act; relating to small claims actions; amending K.S.A. 2013 Supp. 75-6103 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 75-6103 is hereby amended to read as follows: 75-6103. (a) Subject to the limitations of this act, each governmental entity shall be liable for damages caused by the negligent or wrongful act or omission of any of its employees while acting within the scope of their employment under circumstances where the governmental entity, if a private person, would be liable under the laws of this state.

(b) (1) Except as otherwise provided in this act, either the code of civil procedure or, subject to ~~provision (2) of this subsection (b)(2)~~, the code of civil procedure for limited actions shall be applicable to actions within the scope of this act. Actions for claims within the scope of the Kansas tort claims act brought under the code of civil procedure for limited actions are subject to the limitations provided in K.S.A. 61-2802, and amendments thereto.

(2) Actions within the scope of the Kansas tort claims act may not be brought under the small claims procedure act. *Notwithstanding any provision of the small claims procedure act to the contrary, if a small claims action is within the scope of the Kansas tort claims act, a lawyer may appear in such small claims action on behalf of any governmental entity, officer or employee for the sole purpose of filing, briefing and arguing a motion to dismiss for lack of jurisdiction.*

Sec. 2. K.S.A. 2013 Supp. 75-6103 is hereby repealed.

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

Approved April 10, 2014.

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## CHAPTER 56

## HOUSE BILL No. 2516

AN ACT concerning health care provider liability insurance; relating to mutual insurance companies organized to provide health care provider liability insurance; health care provider insurance availability act; amending K.S.A. 40-12a02, 40-12a06, 40-12a09, 40-3402, 40-3403a, 40-3403b, 40-3407, 40-3408, 40-3411, 40-3412, 40-3413, 40-3416, 40-3419 and 40-3422 and K.S.A. 2013 Supp. 40-3401, 40-3403, 40-3404, 40-3414 and 40-3421 and repealing the existing sections.

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

New Section 1. (a) For all claims made on and after July 1, 2014, the amount of fund liability for a judgment or settlement against a resident or nonresident inactive health care provider shall be equal to the minimum professional liability insurance policy limits required pursuant to K.S.A. 40-3402, and amendments thereto, plus the level of coverage selected by the health care provider pursuant to subsection (l) of K.S.A. 40-3403, and amendments thereto, at the time of the incident giving rise to a claim.

(b) This section shall be part of and supplemental to the health care provider insurance availability act.

Sec. 2. K.S.A. 40-12a02 is hereby amended to read as follows: 40-12a02. (a) Except as otherwise provided in this act, the provisions of article 12 of chapter 40 of the Kansas Statutes Annotated, *and amendments thereto*, shall control the formation and operation of companies organized under this act.

(b) Any association of health care providers domiciled within the state of Kansas which has been in existence for three years or more, may, as provided in this act, form an insurance company for the purpose of issuing contracts of insurance providing ~~liability~~ insurance for health care providers which are members of the association, the member's employees, directors, professional associations and affiliates.

(c) Any two or more such associations of health care providers, may form an insurance company for the purpose of issuing contracts of insurance providing ~~liability~~ insurance for such association's respective members, the member's employees, directors, professional associations and affiliates ~~upon the assessment plan~~.

(d) *In addition to other requirements of law, any plan or agreement for the sale, merger, consolidation or change of control of any company organized under the provisions of this act shall not be effective unless such plan or agreement has been approved by resolution of the governing board of directors or board of trustees of the association which formed such company.*

Sec. 3. K.S.A. 40-12a06 is hereby amended to read as follows: 40-12a06. (a) Any company organized under the provisions of this act shall be empowered to make contracts of insurance as provided herein and to

cede to any insurer or accept from any insurer reinsurance on any portion of any such risk for the following kinds of insurance:

~~(1) Against loss or liability arising out of the performance of professional services rendered or which should have been rendered by an insured.~~

~~(2) Against loss or liability to persons or property for which the insured may be liable or have assumed liability, including but not limited to liability of any person who is a director or officer of a health care provider arising out of acts performed or which should have been performed by such director or officer.~~

~~(3) Against loss or liability to persons or property resulting from the ownership, maintenance or use of any ambulance, aircraft or other vehicle used by an insured in connection with rendering professional services authorized by article 12 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.~~

(b) Any company organized under the provisions of this act shall be empowered to contract with the governing board of any plan created pursuant to K.S.A. 40-3413, and amendments thereto, to issue policies to any applicant for liability insurance under the provisions of any such plan, to service and manage such policies and in all respects to administer and carry out the functions of any plan as the same may be authorized by the contract. Policies may be issued to persons and corporations under the provisions of such contract even though the insured is not a member of the association of health care providers forming the insurance company. No provision of this act or of article 12 of chapter 40 of the Kansas Statutes Annotated, *and amendments thereto*, regarding the voting rights of members or the payment of dividends shall apply to policies issued under this subsection.

Sec. 4. K.S.A. 40-12a09 is hereby amended to read as follows: 40-12a09. Each company organized pursuant to this act shall file an annual statement each year in accordance with the requirements for domestic insurers writing the same kind of insurance. ~~Any company organized pursuant to this section which states its liabilities for losses and loss adjustment expenses on a present value basis on the effective date of this act shall be allowed a reasonable period of time to discontinue such practice in accordance with a plan approved by the commissioner.~~

Sec. 5. K.S.A. 2013 Supp. 40-3401 is hereby amended to read as follows: 40-3401. As used in this act the following terms shall have the meanings respectively ascribed to them herein.

(a) "Applicant" means any health care provider.

(b) "Basic coverage" means a policy of professional liability insurance required to be maintained by each health care provider pursuant to the provisions of subsection (a) or (b) of K.S.A. 40-3402, and amendments thereto.

(c) “Commissioner” means the commissioner of insurance.

(d) “Fiscal year” means the year commencing on the effective date of this act and each year, commencing on the first day of ~~that month,~~ *July* thereafter.

(e) “Fund” means the health care stabilization fund established pursuant to subsection (a) of K.S.A. 40-3403, and amendments thereto.

(f) “Health care provider” means a person licensed to practice any branch of the healing arts by the state board of healing arts ~~with the exception of physician assistants,~~ a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a medical care facility licensed by the department of health and environment, ~~a health maintenance organization issued a certificate of authority by the commissioner of insurance~~ *state of Kansas,* a podiatrist licensed by the state board of healing arts, ~~an optometrist licensed by the board of examiners in optometry,~~ *a pharmacist licensed by the state board of pharmacy,* ~~a health maintenance organization issued a certificate of authority by the commissioner of insurance,~~ *an optometrist licensed by the board of examiners in optometry,* ~~a pharmacist licensed by the state board of pharmacy,~~ a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection, a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed *prior to January 1, 1988, and continuously thereafter* under K.S.A. 75-3307b, and amendments thereto, or a mental health center or mental health clinic licensed by the ~~secretary of social and rehabilitation services,~~ *except that health* ~~state of Kansas. On and after January 1, 2015, “health care provider” also means a physician assistant licensed by the state board of healing arts, a licensed advanced practice registered nurse who is authorized by the state~~

*board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, a licensed advanced practice registered nurse who has been granted a temporary authorization by the state board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, a nursing facility licensed by the state of Kansas, an assisted living facility licensed by the state of Kansas or a residential health care facility licensed by the state of Kansas. “Health care provider” does not include: (1) Any state institution for people with intellectual disability; (2) any state psychiatric hospital; (3) any person holding an exempt license issued by the state board of healing arts; ~~or~~ (4) any person holding a visiting clinical professor license from the state board of healing arts; (5) any person holding an inactive license issued by the state board of healing arts; (6) any person holding a federally active license issued by the state board of healing arts; (7) an advanced practice registered nurse who is authorized by the state board of nursing to practice as an advanced practice registered nurse in the classification of nurse-midwife and who practices solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who, in addition to such employment or assignment, provides professional services as a charitable health care provider as defined under K.S.A. 75-6102, and amendments thereto; or (8) a physician assistant licensed by the state board of healing arts who practices solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who, in addition to such employment or assignment, provides professional services as a charitable health care provider as defined under K.S.A. 75-6102, and amendments thereto.*

(g) “Inactive health care provider” means a person or other entity who purchased basic coverage or qualified as a self-insurer on or subsequent to the effective date of this act but who, at the time a claim is made for personal injury or death arising out of the rendering of or the failure to render professional services by such health care provider, does not have basic coverage or self-insurance in effect solely because such person is no longer engaged in rendering professional service as a health care provider.

(h) “Insurer” means any corporation, association, reciprocal exchange, inter-insurer and any other legal entity authorized to write bodily injury or property damage liability insurance in this state, including workers compensation and automobile liability insurance, pursuant to the provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of Kansas Statutes Annotated, *and amendments thereto*.

(i) “Plan” means the operating and administrative rules and procedures developed by insurers and rating organizations or the commissioner to make professional liability insurance available to health care providers.

(j) “Professional liability insurance” means insurance providing cov-

erage for legal liability arising out of the performance of professional services rendered or which should have been rendered by a health care provider.

(k) “Rating organization” means a corporation, an unincorporated association, a partnership or an individual licensed pursuant to K.S.A. 40-956, and amendments thereto, to make rates for professional liability insurance.

(l) “Self-insurer” means a health care provider who qualifies as a self-insurer pursuant to K.S.A. 40-3414, and amendments thereto.

(m) “Medical care facility” means the same when used in the health care provider insurance availability act as the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a medical care facility.

(n) “Mental health center” means a mental health center licensed by the ~~secretary of social and rehabilitation services~~ *state of Kansas* under K.S.A. 75-3307b, and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health center.

(o) “Mental health clinic” means a mental health clinic licensed by the ~~secretary of social and rehabilitation services~~ *state of Kansas* under K.S.A. 75-3307b, and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health clinic.

(p) “State institution for people with intellectual disability” means Winfield state hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

(q) “State psychiatric hospital” means Larned state hospital, Osawatomie state hospital and Rainbow mental health facility.

(r) “Person engaged in residency training” means:

(1) A person engaged in a postgraduate training program approved by the state board of healing arts who is employed by and is studying at the university of Kansas medical center only when such person is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and which have not been approved by the dean of the school of medicine and the executive vice-chancellor of the university of Kansas medical center. Persons engaged in residency training shall be considered resident

health care providers for purposes of K.S.A. 40-3401 et seq., and amendments thereto; and

(2) a person engaged in a postgraduate training program approved by the state board of healing arts who is employed by a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine or who is employed by an affiliate of the university of Kansas school of medicine as defined in K.S.A. 76-367, and amendments thereto, only when such person is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and which have not been approved by the chief operating officer of the nonprofit corporation or the chief operating officer of the affiliate and the executive vice-chancellor of the university of Kansas medical center.

(s) “Full-time physician faculty employed by the university of Kansas medical center” means a person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center when such person is providing health care.

(t) “Sexual act” or “sexual activity” means that sexual conduct which constitutes a criminal or tortious act under the laws of the state of Kansas.

(u) “Board” means the board of governors created by K.S.A. 40-3403, and amendments thereto.

(v) “Board of directors” means the governing board created by K.S.A. 40-3413, and amendments thereto.

(w) “Locum tenens contract” means a temporary agreement not exceeding 182 days per calendar year that employs a health care provider to actively render professional services in this state.

(x) “Professional services” means patient care or other services authorized under the act governing licensure of a health care provider.

Sec. 6. K.S.A. 40-3402 is hereby amended to read as follows: 40-3402. (a) A policy of professional liability insurance approved by the commissioner and issued by an insurer duly authorized to transact business in this state in which the limit of the insurer’s liability is not less than \$200,000 per claim, subject to not less than a \$600,000 annual aggregate for all claims made during the policy period, shall be maintained in effect by each resident health care provider as a condition to rendering of active licensure or other statutory authorization to render professional service as a health care provider in this state, unless such health care provider is a self-insurer. This provision shall not apply to optometrists and pharmacists on or after July 1, 1991 nor to physical therapists on and after July 1, 1995 nor to health maintenance organizations on or after July 1, 1997. Such policy shall provide as a minimum coverage for claims made during the term of the policy which were incurred during the term of such policy or during the prior term of a similar policy. Any insurer of-

fering such policy of professional liability insurance to any health care provider may offer to such health care provider a policy as prescribed in this section with deductible options. Such deductible shall be within such policy limits.

(1) Each insurer providing basic coverage shall, within 30 days after the ~~premium for the basic coverage is received by the insurer or within 30 days from the effective date of this act, whichever is later,~~ *effective date of any policy issued in accordance with this subsection*, notify the board of governors that such coverage is or will be in effect. Such notification shall be on a form approved by the board of governors and shall include information identifying the professional liability policy issued or to be issued, the name and address of all health care providers covered by the policy, the amount of the annual premium, the ~~inception~~ *effective* and expiration dates of the coverage and such other information as the board of governors shall require. A copy of the notice required by this subsection shall be furnished the named insured.

(2) In the event of termination of basic coverage by cancellation, non-renewal, expiration or otherwise by either the insurer or named insured, notice of such termination shall be furnished by the insurer to the board of governors, the state agency which licenses, registers or certifies the named insured and the named insured. Such notice shall be provided no less than 30 days prior to the effective date of any termination initiated by the insurer or within 10 *business* days after the date coverage is terminated at the request of the named insured and shall include the name and address of the health care provider or providers for whom basic coverage is terminated and the date basic coverage will cease to be in effect. No basic coverage shall be terminated by cancellation or failure to renew by the insurer unless such insurer provides a notice of termination as required by this subsection.

(3) Any professional liability insurance policy issued, delivered or in effect in this state on and after July 1, 1976, shall contain or be endorsed to provide basic coverage as required by subsection (a) of this section. Notwithstanding any omitted or inconsistent language, any contract of professional liability insurance shall be construed to obligate the insurer to meet all the mandatory requirements and obligations of this act. The liability of an insurer for claims made prior to July 1, 1984, shall not exceed those limits of insurance provided by such policy prior to July 1, 1984.

(b) ~~Unless~~ A nonresident health care provider ~~is a self-insurer, such health care provider shall not be licensed to actively~~ render professional service as a health care provider in this state unless such health care provider maintains *continuous* coverage in effect as prescribed by subsection (a), except such coverage may be provided by a nonadmitted insurer who has filed the form required by subsection (b)(1). This provision

shall not apply to optometrists and pharmacists on or after July 1, 1991 nor to physical therapists on and after July 1, 1995.

(1) Every insurance company authorized to transact business in this state, that is authorized to issue professional liability insurance in any jurisdiction, shall file with the commissioner, as a condition of its continued transaction of business within this state, a form prescribed by the commissioner declaring that its professional liability insurance policies, wherever issued, shall be deemed to provide at least the insurance required by this subsection when the insured is rendering professional services as a nonresident health care provider in this state. Any nonadmitted insurer may file such a form.

(2) Every nonresident health care provider who is required to maintain basic coverage pursuant to this subsection shall pay the surcharge levied by the board of governors pursuant to subsection (a) of K.S.A. 40-3404, and amendments thereto, directly to the board of governors and shall furnish to the board of governors the information required in subsection (a)(1).

(c) Every health care provider that is a self-insurer, the university of Kansas medical center for persons engaged in residency training, as described in subsection (r)(1) of K.S.A. 40-3401, and amendments thereto, the employers of persons engaged in residency training, as described in subsection (r)(2) of K.S.A. 40-3401, and amendments thereto, the private practice corporations or foundations and their full-time physician faculty employed by the university of Kansas medical center or a medical care facility or mental health center for self-insurers under subsection (e) of K.S.A. 40-3414, and amendments thereto, shall pay the surcharge levied by the board of governors pursuant to subsection (a) of K.S.A. 40-3404, and amendments thereto, directly to the board of governors and shall furnish to the board of governors the information required in subsection (a)(1) and (a)(2).

(d) In lieu of a claims made policy otherwise required under this section, a person engaged in residency training who is providing services as a health care provider but while providing such services is not covered by the self-insurance provisions of subsection (d) of K.S.A. 40-3414, and amendments thereto, may obtain basic coverage under an occurrence form policy if such policy provides professional liability insurance coverage and limits which are substantially the same as the professional liability insurance coverage and limits required by subsection (a) of K.S.A. 40-3402, and amendments thereto. Where such occurrence form policy is in effect, the provisions of the health care provider insurance availability act referring to claims made policies shall be construed to mean occurrence form policies.

(e) *In lieu of a claims made policy otherwise required under this section, a nonresident health care provider employed pursuant to a locum tenens contract to provide services in this state as a health care provider*

*may obtain basic coverage under an occurrence form policy if such policy provides professional liability insurance coverage and limits which are substantially the same as the professional liability insurance coverage and limits required by K.S.A. 40-3402, and amendments thereto. Where such occurrence form policy is in effect, the provisions of the health care provider insurance availability act referring to claims made policies shall be construed to mean occurrence form policies.*

Sec. 7. K.S.A. 2013 Supp. 40-3403 is hereby amended to read as follows: 40-3403. (a) For the purpose of paying damages for personal injury or death arising out of the rendering of or the failure to render professional services by a health care provider, self-insurer or inactive health care provider subsequent to the time that such health care provider or self-insurer has qualified for coverage under the provisions of this act, there is hereby established the health care stabilization fund. The fund shall be held in trust in the state treasury and accounted for separately from other state funds. The board of governors shall administer the fund or contract for the administration of the fund with an insurance company authorized to do business in this state.

(b) (1) There is hereby created a board of governors which shall be composed of such members and shall have such powers, duties and functions as are prescribed by this act. The board of governors shall:

(A) Administer the fund and exercise and perform other powers, duties and functions required of the board under the health care provider insurance availability act;

(B) provide advice, information and testimony to the appropriate licensing or disciplinary authority regarding the qualifications of a health care provider;

(C) prepare and publish, on or before October 1 of each year, a summary of the fund's activity during the preceding fiscal year, including but not limited to the amount collected from surcharges, the highest and lowest surcharges assessed, the amount paid from the fund, the number of judgments paid from the fund, the number of settlements paid from the fund and the amount in the fund at the end of the fiscal year; and

(D) have the authority to grant *temporary* exemptions from the provisions of ~~subsection (m) of this section~~ when a health care provider temporarily leaves the state for the purpose of obtaining additional education or training or to participate in religious, humanitarian or government service programs. ~~Whenever a health care provider has previously left the state for one of the reasons specified in this paragraph and returns to the state and recommences practice, the board of governors may refund any amount paid by the health care provider pursuant to subsection (m) of this section if no claims have been filed against such health care provider during the provider's temporary absence from the state~~ K.S.A. 40-3402 and 40-3404, and amendments thereto, to health care providers who have

*exceptional circumstances and verify in writing that the health care provider will not render professional services in this state during the period of exemption. Whenever the board grants such an exemption, the board shall notify the state agency which licenses the exempted health care provider.*

(2) The board shall consist of ~~10~~ 11 persons appointed by the commissioner of insurance, as provided by this subsection (b) and as follows:

(A) Three members who are licensed to practice medicine and surgery in Kansas who are doctors of medicine and who are on a list of nominees submitted to the commissioner by the Kansas medical society;

(B) three members who are representatives of Kansas hospitals and who are on a list of nominees submitted to the commissioner by the Kansas hospital association;

(C) two members who are licensed to practice medicine and surgery in Kansas who are doctors of osteopathic medicine and who are on a list of nominees submitted to the commissioner by the Kansas association of osteopathic medicine;

(D) one member who is licensed to practice chiropractic in Kansas and who is on a list of nominees submitted to the commissioner by the Kansas chiropractic association;

(E) one member who is a licensed professional nurse authorized to practice as a registered nurse anesthetist who is on a list of nominees submitted to the commissioner by the Kansas association of nurse anesthetists.

(F) *one member who is a representative of adult care homes who is on a list of nominees submitted to the commissioner by statewide associations comprised of members who represent adult care homes.*

(3) When a vacancy occurs in the membership of the board of governors created by this act, the commissioner shall appoint a successor of like qualifications from a list of three nominees submitted to the commissioner by the professional society or association prescribed by this section for the category of health care provider required for the vacant position on the board of governors. All appointments made shall be for a term of office of four years, but no member shall be appointed for more than two successive four-year terms. Each member shall serve until a successor is appointed and qualified. Whenever a vacancy occurs in the membership of the board of governors created by this act for any reason other than the expiration of a member's term of office, the commissioner shall appoint a successor of like qualifications to fill the unexpired term. In each case of a vacancy occurring in the membership of the board of governors, the commissioner shall notify the professional society or association which represents the category of health care provider required for the vacant position and request a list of three nominations of health care providers from which to make the appointment.

(4) The board of governors shall organize ~~on~~ in July ~~1~~ of each year

and shall elect a chairperson and vice-chairperson from among its membership. Meetings shall be called by the chairperson or by a written notice signed by three members of the board.

(5) The board of governors, in addition to other duties imposed by this act, shall study and evaluate the operation of the fund and make such recommendations to the legislature as may be appropriate to ensure the viability of the fund.

(6) (A) The board shall appoint an executive director who shall be in the unclassified service under the Kansas civil service act and may appoint ~~such employ~~ attorneys, legal assistants, claims managers and compliance auditors ~~and other employees~~ who shall also be in the unclassified service under the Kansas civil service act. Such executive director, attorneys, legal assistants, claims managers and compliance auditors ~~and other employees~~ shall receive compensation fixed by the board, in accordance with appropriation acts of the legislature, not subject to approval of the governor.

(B) The board may ~~appoint such additional employees, and~~ provide all office space, services, equipment, materials and supplies, and all budgeting, personnel, purchasing and related management functions required by the board in the exercise of the powers, duties and functions imposed or authorized by the health care provider insurance availability act or may enter into a contract with the commissioner of insurance for the provision, by the commissioner, of all or any part thereof.

(7) The commissioner shall:

(A) Provide technical and administrative assistance to the board of governors with respect to administration of the fund upon request of the board;

(B) provide such expertise as the board may reasonably request with respect to evaluation of claims or potential claims.

(c) ~~Subject to subsections (d), (e), (f), (i), (k), (m), (n), (o), (p) and (q),~~ Except as otherwise provided by any other provision of this act, the fund shall be liable to pay: (1) Any amount due from a judgment or settlement which is in excess of the basic coverage liability of all liable resident health care providers or resident self-insurers for any personal injury or death arising out of the rendering of or the failure to render professional services within or without this state;

(2) subject to the provisions of ~~subsection~~ subsections (f) and (m), any amount due from a judgment or settlement which is in excess of the basic coverage liability of all liable nonresident health care providers or nonresident self-insurers for any such injury or death arising out of the rendering or the failure to render professional services within this state but in no event shall the fund be obligated for claims against nonresident health care providers or nonresident self-insurers who have not complied with this act or for claims against nonresident health care providers or nonresident self-insurers that arose outside of this state;

(3) subject to the provisions of ~~subsection~~ subsections (f) and (m), any

amount due from a judgment or settlement against a resident inactive health care provider, ~~an optometrist or pharmacist who purchased coverage pursuant to subsection (n) or a physical therapist who purchased coverage pursuant to subsection (o)~~; for any such injury or death arising out of the rendering of or failure to render professional services;

(4) ~~subject to the provisions of subsection (n) or a physical therapist who purchased coverage pursuant to subsection (o)~~ ~~subject to subsection (f) and (m)~~, any amount due from a judgment or settlement against a nonresident inactive health care provider, ~~an optometrist or pharmacist who purchased coverage pursuant to subsection (n) or a physical therapist who purchased coverage pursuant to subsection (o)~~, for any injury or death arising out of the rendering or failure to render professional services within this state, but in no event shall the fund be obligated for claims against: (A) Non-resident inactive health care providers who have not complied with this act; or (B) nonresident inactive health care providers for claims that arose outside of this state, unless such health care provider was a resident health care provider or resident self-insurer at the time such act occurred;

(5) subject to subsection (b) of K.S.A. 40-3411, and amendments thereto, reasonable and necessary expenses for attorney fees, *depositions, expert witnesses and other costs* incurred in defending the fund against claims, *which expenditures shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto*;

(6) any amounts expended for reinsurance obtained to protect the best interests of the fund purchased by the board of governors, which purchase shall be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, but shall not be subject to the provisions of K.S.A. 75-4101, and amendments thereto;

(7) reasonable and necessary actuarial expenses incurred in administering the act, including expenses for any actuarial studies contracted for by the legislative coordinating council, which expenditures shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto;

(8) periodically to the plan or plans, any amount due pursuant to subsection (a)(3) of K.S.A. 40-3413, and amendments thereto;

(9) reasonable and necessary expenses incurred by the board of governors in the administration of the fund or in the performance of other powers, duties or functions of the board under the health care provider insurance availability act;

(10) ~~return of any unearned~~ *surcharge refunds payable when the notice of cancellation requirements of K.S.A. 40-3402, and amendments thereto, are met*;

(11) subject to subsection (b) of K.S.A. 40-3411, and amendments thereto, reasonable and necessary expenses for attorney fees and other costs incurred in defending a person engaged or who was engaged in residency training or the private practice corporations or foundations and their full-time physician faculty employed by the university of Kansas

medical center or any nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine from claims for personal injury or death arising out of the rendering of or the failure to render professional services by such health care provider;

(12) notwithstanding the provisions of subsection (m), any amount due from a judgment or settlement for an injury or death arising out of the rendering of or failure to render professional services by a person engaged or who was engaged in residency training or the private practice corporations or foundations and their full-time physician faculty employed by the university of Kansas medical center or any nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine;

(13) subject to the provisions of K.S.A. 65-429, and amendments thereto, reasonable and necessary expenses for the development and promotion of risk management education programs and for the medical care facility licensure and risk management survey functions carried out under K.S.A. 65-429, and amendments thereto;

(14) notwithstanding the provisions of subsection (m), any amount, but not less than the required basic coverage limits, owed pursuant to a judgment or settlement for any injury or death arising out of the rendering of or failure to render professional services by a person, other than a person described in ~~clause~~ *paragraph* (12) of this subsection (c), who was engaged in a postgraduate program of residency training approved by the state board of healing arts but who, at the time the claim was made, was no longer engaged in such residency program;

(15) subject to subsection (b) of K.S.A. 40-3411, and amendments thereto, reasonable and necessary expenses for attorney fees and other costs incurred in defending a person described in ~~clause~~ *paragraph* (14) of this subsection (c);

(16) expenses incurred by the commissioner in the performance of duties and functions imposed upon the commissioner by the health care provider insurance availability act, and expenses incurred by the commissioner in the performance of duties and functions under contracts entered into between the board and the commissioner as authorized by this section; and

(17) periodically to the state general fund reimbursements of amounts paid to members of the health care stabilization fund oversight committee for compensation, travel expenses and subsistence expenses pursuant to subsection (e) of K.S.A. 40-3403b, and amendments thereto.

(d) All amounts for which the fund is liable pursuant to subsection (c) shall be paid promptly and in full except that, if the amount for which the fund is liable is \$300,000 or more, it shall be paid, by installment payments of \$300,000 or 10% of the amount of the judgment including

interest thereon, whichever is greater, per fiscal year, the first installment to be paid within 60 days after the fund becomes liable and each subsequent installment to be paid annually on the same date of the year the first installment was paid, until the claim has been paid in full. ~~Any attorney fees payable from such installment shall be similarly prorated.~~

(e) In no event shall the fund be liable to pay in excess of \$3,000,000 pursuant to any one judgment or settlement against any one health care provider relating to any injury or death arising out of the rendering of or the failure to render professional services on and after July 1, 1984, and before July 1, 1989, subject to an aggregate limitation for all judgments or settlements arising from all claims made in any one fiscal year in the amount of \$6,000,000 for each health care provider.

(f) ~~The fund shall not~~ *In no event shall the fund* be liable to pay in excess of the amounts specified in the option selected by ~~the~~ *an active or inactive* health care provider pursuant to subsection (l) for judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services by such health care provider on or after July 1, 1989.

(g) A health care provider shall be deemed to have qualified for coverage under the fund:

- (1) On and after July 1, 1976, if basic coverage is then in effect;
- (2) subsequent to July 1, 1976, at such time as basic coverage becomes effective; or
- (3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414, and amendments thereto.

(h) A health care provider who is qualified for coverage under the fund shall have no vicarious liability or responsibility for any injury or death arising out of the rendering of or the failure to render professional services inside or outside this state by any other health care provider who is also qualified for coverage under the fund. The provisions of this subsection shall apply to all claims filed on or after July 1, 1986.

(i) Notwithstanding the provisions of K.S.A. 40-3402, and amendments thereto, if the board of governors determines due to the number of claims filed against a health care provider or the outcome of those claims that an individual health care provider presents a material risk of significant future liability to the fund, the board of governors is authorized by a vote of a majority of the members thereof, after notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, to terminate the liability of the fund for all claims against the health care provider for damages for death or personal injury arising out of the rendering of or the failure to render professional services after the date of termination. The date of termination shall be 30 days after the date of the determination by the board of governors. The board of governors, upon termination of the liability of the fund under this subsection, shall notify the licensing or other disciplinary board

having jurisdiction over the health care provider involved of the name of the health care provider and the reasons for the termination.

(j) (1) Subject to the provisions of paragraph (7) of this subsection (j), upon the payment of moneys from the health care stabilization fund pursuant to subsection (c)(11), the board of governors shall certify to the ~~director of accounts and reports~~ *secretary of administration* the amount of such payment, and the ~~director of accounts and reports~~ *secretary of administration* shall transfer an amount equal to the amount certified, reduced by any amount transferred pursuant to paragraph (3) or (4) of this subsection (j), from the state general fund to the health care stabilization fund.

(2) Subject to the provisions of paragraph (7) of this subsection (j), upon the payment of moneys from the health care stabilization fund pursuant to subsection (c)(12), the board of governors shall certify to the ~~director of accounts and reports~~ *secretary of administration* the amount of such payment which is equal to the basic coverage liability of self-insurers, and the ~~director of accounts and reports~~ *secretary of administration* shall transfer an amount equal to the amount certified, reduced by any amount transferred pursuant to paragraph (3) or (4) of this subsection (j), from the state general fund to the health care stabilization fund.

(3) The university of Kansas medical center private practice foundation reserve fund is hereby established in the state treasury. If the balance in such reserve fund is less than \$500,000 on July 1 of any year, the private practice corporations or foundations referred to in subsection (c) of K.S.A. 40-3402, and amendments thereto, shall remit the amount necessary to increase such balance to \$500,000 to the state treasurer for credit to such reserve fund as soon after such July 1 date as is practicable. Upon receipt of each such remittance, the state treasurer shall credit the same to such reserve fund. When compliance with the foregoing provisions of this paragraph have been achieved on or after July 1 of any year in which the same are applicable, the state treasurer shall certify to the board of governors that such reserve fund has been funded for the year in the manner required by law. Moneys in such reserve fund may be invested or reinvested in accordance with the provisions of K.S.A. 40-3406, and amendments thereto, and any income or interest earned by such investments shall be credited to such reserve fund. Upon payment of moneys from the health care stabilization fund pursuant to subsection (c)(11) or (c)(12) with respect to any private practice corporation or foundation or any of its full-time physician faculty employed by the university of Kansas, the ~~director of accounts and reports~~ *secretary of administration* shall transfer an amount equal to the amount paid from the university of Kansas medical center private practice foundation reserve fund to the health care stabilization fund or, if the balance in such reserve fund is

less than the amount so paid, an amount equal to the balance in such reserve fund.

(4) The graduate medical education administration reserve fund is hereby established in the state treasury. If the balance in such reserve fund is less than \$40,000 on July 1 of any year, the nonprofit corporations organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall remit the amount necessary to increase such balance to \$40,000 to the state treasurer for credit to such reserve fund as soon after such July 1 date as is practicable. Upon receipt of each such remittance, the state treasurer shall credit the same to such reserve fund. When compliance with the foregoing provisions of this paragraph have been achieved on or after July 1 of any year in which the same are applicable, the state treasurer shall certify to the board of governors that such reserve fund has been funded for the year in the manner required by law. Moneys in such reserve fund may be invested or reinvested in accordance with the provisions of K.S.A. 40-3406, and amendments thereto, and any income or interest earned by such investments shall be credited to such reserve fund. Upon payment of moneys from the health care stabilization fund pursuant to subsection (c)(11) or (c)(12) with respect to any nonprofit corporations organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine the ~~director of accounts and reports~~ *secretary of administration* shall transfer an amount equal to the amount paid from the graduate medical education administration reserve fund to the health care stabilization fund or, if the balance in such reserve fund is less than the amount so paid, an amount equal to the balance in such reserve fund.

(5) Upon payment of moneys from the health care stabilization fund pursuant to subsection (c)(14) or (c)(15), the board of governors shall certify to the ~~director of accounts and reports~~ *secretary of administration* the amount of such payment, and the ~~director of accounts and reports~~ *secretary of administration* shall transfer an amount equal to the amount certified from the state general fund to the health care stabilization fund.

(6) Transfers from the state general fund to the health care stabilization fund pursuant to subsection (j) shall not be subject to the provisions of K.S.A. 75-3722, and amendments thereto.

(7) The funds required to be transferred from the state general fund to the health care stabilization fund pursuant to paragraphs (1) and (2) of this subsection (j) for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013, shall not be transferred prior to July 1, 2013. The ~~director of accounts and reports~~ *secretary of administration* shall maintain a record of the amounts certified by the board of governors pursuant to paragraphs (1) and (2) of this subsection (j) for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013.

Beginning July 1, 2013, in addition to any other transfers required pursuant to subsection (j), the state general fund transfers which are deferred pursuant to this paragraph shall be transferred from the state general fund to the health care stabilization fund in the following manner: On July 1, 2013, and annually thereafter through July 1, 2017, an amount equal to 20% of the total amount of state general fund transfers deferred pursuant to this paragraph for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013. The amounts deferred pursuant to this paragraph shall not accrue interest thereon.

(k) Notwithstanding any other provision of the health care provider insurance availability act, no psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, shall be assessed a premium surcharge or be entitled to coverage under the fund if such hospital has not paid any premium surcharge pursuant to K.S.A. 40-3404, and amendments thereto, prior to January 1, 1988.

(l) On or after July 1, 1989, every health care provider shall make an election to be covered by one of the following options provided in this subsection (l) which shall limit the liability of the fund with respect to judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services on or after July 1, 1989. Such election shall be made at the time the health care provider renews the basic coverage in effect on July 1, 1989, or, if basic coverage is not in effect, such election shall be made at the time such coverage is acquired pursuant to K.S.A. 40-3402, and amendments thereto. Notice of the election shall be provided by the insurer providing the basic coverage in the manner and form prescribed by the board of governors and shall continue to be effective from year to year unless modified by a subsequent election made prior to the anniversary date of the policy. The health care provider may at any subsequent election reduce the dollar amount of the coverage for the next and subsequent fiscal years, but may not increase the same, unless specifically authorized by the board of governors. Any election of fund coverage limits, whenever made, shall be with respect to judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services on or after the effective date of such election of fund coverage limits. Such election shall be made for persons engaged in residency training and persons engaged in other postgraduate training programs approved by the state board of healing arts at medical care facilities or mental health centers in this state by the agency or institution paying the surcharge levied under K.S.A. 40-3404, and amendments thereto, for such persons. The election of fund coverage limits for a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be deemed to be effective at the highest option. Such options shall be as follows:

(1) *OPTION 1.* The fund shall not be liable to pay in excess of \$100,000 pursuant to any one judgment or settlement for any party against such health care provider, subject to an aggregate limitation for all judgments or settlements arising from all claims made in the fiscal year in an amount of \$300,000 for such provider.

(2) *OPTION 2.* The fund shall not be liable to pay in excess of \$300,000 pursuant to any one judgment or settlement for any party against such health care provider, subject to an aggregate limitation for all judgments or settlements arising from all claims made in the fiscal year in an amount of \$900,000 for such provider.

(3) *OPTION 3.* The fund shall not be liable to pay in excess of \$800,000 pursuant to any one judgment or settlement for any party against such health care provider, subject to an aggregate limitation for all judgments or settlements arising from all claims made in the fiscal year in an amount of \$2,400,000 for such health care provider.

(m) The fund shall not be liable for any amounts due from a judgment or settlement against resident or nonresident inactive health care providers who first qualify as an inactive health care provider on or after July 1, 1989, unless such health care provider has been in compliance with K.S.A. 40-3402, and amendments thereto, for a period of not less than five years. If a health care provider has not been in compliance for five years, such health care provider may make application and payment for the coverage for the period while they are nonresident health care providers, nonresident self-insurers or resident or nonresident inactive health care providers to the fund. Such payment shall be made within 30 days after the health care provider ceases being an active health care provider and shall be made in an amount determined by the board of governors to be sufficient to fund anticipated claims based upon reasonably prudent actuarial principles. The provisions of this subsection shall not be applicable to any health care provider which becomes inactive through death or retirement, or through disability or circumstances beyond such health care provider's control, if such health care provider notifies the board of governors and receives approval for an exemption from the provisions of this subsection. Any period spent in a postgraduate program of residency training approved by the state board of healing arts shall not be included in computation of time spent in compliance with the provisions of K.S.A. 40-3402, and amendments thereto. *The provisions of this subsection shall expire on July 1, 2014.*

(n) ~~Notwithstanding the provisions of subsection (m) or any other provision in article 34 of chapter 40 of the Kansas Statutes Annotated to the contrary, the fund shall not be liable for any claim made on or after July 1, 1991, against a licensed optometrist or pharmacist relating to any injury or death arising out of the rendering of or failure to render professional services by such optometrist or pharmacist prior to July 1, 1991, unless such optometrist or pharmacist qualified as an inactive health care~~

~~provider prior to July 1, 1991. In the event of a claim against a health care provider for personal injury or death arising out of the rendering of or the failure to render professional services by such health care provider, the liability of the fund shall be limited to the amount of coverage selected by the health care provider at the time of the incident giving rise to the claim.~~

~~(o) Notwithstanding the provisions of subsection (m) or any other provision in article 34 of chapter 40 of the Kansas Statutes Annotated to the contrary, the fund shall not be liable for any claim made on or after July 1, 1995, against a physical therapist registered by the state board of healing arts relating to any injury or death arising out of the rendering of or failure to render professional services by such physical therapist prior to July 1, 1995, unless such physical therapist qualified as an inactive health care provider prior to July 1, 1995.~~

~~(p) Notwithstanding the provisions of subsection (m) or any other provision in article 34 of chapter 40 of the Kansas Statutes Annotated to the contrary, the fund shall not be liable for any claim made on or after July 1, 1997, against a health maintenance organization relating to any injury or death arising out of the rendering of or failure to render professional services by such health maintenance organization prior to July 1, 1997, unless such health maintenance organization qualified as an inactive health care provider prior to July 1, 1997, and obtained coverage pursuant to subsection (m). Health maintenance organizations not qualified as inactive health care providers prior to July 1, 1997, may purchase coverage from the fund for periods of prior compliance by making application prior to August 1, 1997, and payment within 30 days from notice of the calculated amount as determined by the board of governors to be sufficient to fund anticipated claims based on reasonably prudent actuarial principles.~~

~~(q) Notwithstanding anything in article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, to the contrary, the fund shall in no event be liable for any claims against any health care provider based upon or relating to the health care provider's sexual acts or activity, but in such cases the fund may pay reasonable and necessary expenses for attorney fees incurred in defending the fund against such claim. The fund may recover all or a portion of such expenses for attorney fees if an adverse judgment is returned against the health care provider for damages resulting from the health care provider's sexual acts or activity.~~

Sec. 8. K.S.A. 40-3403a is hereby amended to read as follows: 40-3403a. Any health care provider whose fund coverage has been terminated under subsection (i) of K.S.A. 40-3403, and amendments thereto, shall, as a condition of licensure, maintain *continuous* professional liability insurance coverage equivalent to that provided by the fund and shall

submit to the board of governors satisfactory proof of such coverage, as required by the ~~commissioner~~ *board*.

Sec. 9. K.S.A. 40-3403b is hereby amended to read as follows: 40-3403b. (a) There is hereby created a health care stabilization fund oversight committee to consist of eleven members, one of whom shall be the chairperson of the board of governors or another member of the board of governors designated by the chairperson, one of whom shall be appointed by the president of the state senate, one of whom shall be appointed by the minority leader of the state senate, one of whom shall be appointed by the speaker of the state house of representatives, one of whom shall be appointed by the minority leader of the state house of representatives and six of whom shall be persons appointed by the legislative coordinating council. The four members appointed by the president and minority leader of the state senate and the speaker and minority leader of the state house of representatives shall be members of the state legislature. Of the six members appointed by the legislative coordinating council, four shall either be health care providers or be employed by health care providers, one shall be a representative of the insurance industry and one shall be appointed from the public at large who is not affiliated with any health care provider or the insurance industry, but none of such six members shall be members of the state legislature. Members serving on the committee on July 1, ~~1991~~ 2014, shall continue to serve at the pleasure of the appointing authority.

(b) The legislative coordinating council shall designate a chairperson of the committee from among the members thereof. The committee shall meet upon the call of the chairperson. It shall be the responsibility of the committee to make an annual report to the legislative coordinating council on or before ~~September~~ January 1 of each year and to perform such additional duties as the legislative coordinating council shall direct. The report required to be made to the legislative coordinating council shall include recommendations to the legislature on the advisability of continuation or termination of the fund or any provisions of this act, an analysis of the market for insurance for health care providers, recommendations on ways to reduce claim and operational costs of the fund, and legislation necessary to implement recommendations of the committee.

(c) The board of governors shall provide any consulting actuarial firm contracting with the legislative coordinating council with such information or materials pertaining to the health care stabilization fund deemed necessary by the actuarial firm for performing the requirements of any actuarial reviews for the health care stabilization fund oversight committee notwithstanding any confidentiality prohibition, restriction or limitation imposed on such information or materials by any other law. The consulting actuarial firm and all employees and former employees thereof shall be subject to the same duty of confidentiality imposed by law on other

persons or state agencies with regard to information and materials so provided and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality. Any reports of the consulting actuarial firm shall be made in a manner which will not reveal directly or indirectly the name of any persons or entities or individual reserve information involved in claims or actions for damages for personal injury or loss due to error, omission or negligence in the performance of professional services by health care providers. Information provided to the actuary shall not be subject to discovery, subpoena or other means of legal compulsion in any civil proceedings and shall be returned by the actuary to the health care stabilization fund.

(d) The staff of the legislative research department, the office of the revisor of statutes and the division of legislative administrative services shall provide such assistance as may be requested by the committee and to the extent authorized by the legislative coordinating council.

(e) Members of the committee attending meetings of the committee, or attending a subcommittee meeting thereof authorized by the committee, shall be paid compensation, travel expenses and subsistence expenses as provided in K.S.A. 75-3212, and amendments thereto.

(f) This section shall be a part of and supplemental to the health care provider insurance availability act.

Sec. 10. K.S.A. 2013 Supp. 40-3404 is hereby amended to read as follows: 40-3404. (a) Except for any health care provider whose participation in the fund has been terminated pursuant to subsection (i) of K.S.A. 40-3403, and amendments thereto, the board of governors shall levy an annual premium surcharge on each health care provider who has obtained basic coverage and upon each self-insurer for each year. This provision shall not apply to optometrists and pharmacists on or after July 1, 1991, nor to physical therapists on or after July 1, 1995, nor to health maintenance organizations on and after July 1, 1997. Such premium surcharge shall be an amount based upon a rating classification system established by the board of governors which is reasonable, adequate and not unfairly discriminating. The annual premium surcharge upon the university of Kansas medical center for persons engaged in residency training, as described in paragraph (1) of subsection (r) of K.S.A. 40-3401, and amendments thereto, shall be based on an assumed aggregate premium of \$600,000. The annual premium surcharge upon the employers of persons engaged in residency training, as described in paragraph (2) of subsection (r) of K.S.A. 40-3401, and amendments thereto, shall be based on an assumed aggregate premium of \$400,000. The surcharge on such \$400,000 amount shall be apportioned among the employers of persons engaged in residency training, as described in paragraph (2) of subsection (r) of K.S.A. 40-3401, and amendments thereto, based on the number of residents employed as of July 1 of each year. The annual premium sur-

charge upon any nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be based upon an assumed aggregate premium of \$10,000. The surcharge on such assumed aggregate premium shall be apportioned among all such nonprofit corporations.

(b) In the case of a resident health care provider who is not a self-insurer, the premium surcharge shall be collected in addition to the annual premium for the basic coverage by the insurer and shall not be subject to the provisions of K.S.A. 40-252, 40-955 and 40-2801 et seq., and amendments thereto. The amount of the premium surcharge shall be shown separately on the policy or an endorsement thereto and shall be specifically identified as such. Such premium surcharge shall be due and payable by the insurer to the board of governors within 30 days after the annual premium for the basic coverage is received by the insurer; ~~but in the event basic coverage is in effect at the time this act becomes effective, such surcharge shall be based upon the unearned premium until policy expiration and annually thereafter.~~ Within 15 days immediately following the effective date of this act, the board of governors shall send to each insurer information necessary for their compliance with this subsection. The certificate of authority of any insurer who fails to comply with the provisions of this subsection shall be suspended pursuant to K.S.A. 40-222, and amendments thereto, until such insurer shall pay the annual premium surcharge due and payable to the board of governors. In the case of a nonresident health care provider or a self-insurer, the premium surcharge shall be ~~collected in the manner prescribed in~~ *paid upon submitting documentation of compliance with* K.S.A. 40-3402, and amendments thereto.

(c) In setting the amount of such surcharge, the board of governors may require any health care provider who has paid a surcharge for less than 24 months to pay a higher surcharge than other health care providers.

Sec. 11. K.S.A. 40-3407 is hereby amended to read as follows: 40-3407. (a) Except for investment purposes, all payments from the fund shall be upon warrants of the ~~director of accounts and reports state of Kansas~~ issued pursuant to vouchers approved by the ~~chairperson of the board of governors, or the chairperson's executive director or the executive director's~~ designee, and, with respect to claim payments, accompanied by: (1) A ~~certified file stamped~~ copy of a final judgment against a health care provider or inactive health care provider for which the fund is liable; or (2) a ~~certified file stamped~~ copy of a court approved settlement against a health care provider or inactive health care provider for which the fund is liable.

(b) For investment purposes amounts shall be paid from the fund

upon vouchers approved by the chairperson of the pooled money investment board.

(c) (1) *Payments from the fund for attorney fees, expert witness fees, and other costs related to claims, including invoices, statements and other documentation thereof, shall not be subject to K.S.A. 45-218, and amendments thereto.*

(2) *The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this section shall be reviewed by the legislature prior to July 1, 2019.*

Sec. 12. K.S.A. 40-3408 is hereby amended to read as follows: 40-3408. (a) The insurer of a health care provider covered by the fund or self-insurer shall be liable only for the first \$200,000 of a claim for personal injury or death arising out of the rendering of or the failure to render professional services by such health care provider, subject to an annual aggregate of \$600,000 for all such claims against the health care provider. However, if any liability insurance in excess of such amounts is applicable to any claim or would be applicable in the absence of this act, any payments from the fund shall be excess over such amounts paid, payable or that would have been payable in the absence of this act. ~~The liability of an insurer for claims made prior to July 1, 1984, shall not exceed those limits of insurance provided by such policy prior to July 1, 1984.~~

(b) If any inactive health care provider has liability insurance in effect which is applicable to any claim or would be applicable in the absence of this act, any payments from the fund shall be excess over such amounts paid, payable or that would have been payable in the absence of this act.

(c) Notwithstanding anything in article 34 of chapter 40 of the Kansas Statutes Annotated, *and amendments thereto*, to the contrary, an insurer that provides coverage to a health care provider may exclude from coverage any liability incurred by such provider:

(1) From the rendering of or the failure to render professional services by any other health care provider who is required by K.S.A. 40-3402, and amendments thereto, to maintain professional liability insurance in effect as a condition to rendering professional services as a health care provider in this state; or

(2) based upon or relating to the health care provider's sexual acts or activity, but in such cases the insurer may provide reasonable and necessary expenses for attorney fees incurred in defending against such claim. The insurer may recover all or a portion of such expenses for attorney fees if an adverse judgment is returned against the health care provider for damages resulting from the health care provider's sexual acts or activity.

(d) *The fund shall not be liable for payment of any claim excluded by an insurer pursuant to this section or any claim otherwise excluded from coverage under a health care provider's professional liability insurance.*

Sec. 13. K.S.A. 40-3411 is hereby amended to read as follows: 40-3411. (a) In any claim in which the insurer of a health care provider or inactive health care provider covered by the fund has agreed to settle its liability on a claim against its insured or when the self-insurer has agreed to settle liability on a claim and the claimant's demand is in an amount in excess of such settlement, to which the board of governors does not agree, or where the claim is against an inactive health care provider covered by the fund who does not have liability insurance in effect which is applicable to the claim and the claimant and board of governors cannot agree upon a settlement, an action must be commenced by the claimant against the health care provider or inactive health care provider in a court of appropriate jurisdiction for such damages as are reasonable in the premises. If an action is already pending against the health care provider or inactive health care provider, the pending action shall be conducted in all respects as if the insurer or self-insurer had not agreed to settle.

(b) Any such action against a health care provider covered by the fund or inactive health care provider covered by the fund who has liability insurance in effect which is applicable to the claim shall be defended by the insurer or self-insurer in all respects as if the insurer or self-insurer had not agreed to settle its liability. Notwithstanding any other provision of law, the insurer or self-insurer shall be reimbursed from the fund for the costs of such defense incurred after the settlement agreement was reached, including a reasonable attorney's fee not to exceed the maximum hourly rate established by the board of governors. The board of governors is authorized to employ independent counsel in any such action against a health care provider or an inactive health care provider covered by the fund. If the primary carrier or self-insurer determines that the policy limits or the self-insured amount of basic coverage should be tendered to the fund in order to relieve itself of further costs of defense, it may do so in the manner specified by the board of governors. In the event of such a tender, the fund shall become responsible for the conduct of the defense. The board of governors may employ the attorney retained by the primary carrier or self-insurer or appoint other counsel to represent such health care provider. In any event, the board of governors shall pay attorneys' fees at a rate not to exceed the maximum hourly rate established by the board of governors. Under such circumstances, the fund shall have no liability for attorneys' fees to any attorney not so appointed.

(c) In any such action the health care provider or the inactive health care provider against whom claim is made shall be obligated to attend hearings and trials, as necessary, and to give evidence.

~~(d) The costs of the action shall be assessed against the fund if the recovery is in excess of the amount offered by the board of governors to settle the case and against the claimant if the recovery is less than such amount.~~

Sec. 14. K.S.A. 40-3412 is hereby amended to read as follows: 40-3412. (a) Any action for personal injury or death arising out of the rendering of or the failure to render professional services by any health care provider or inactive health care provider shall be maintained against such health care provider or inactive health care provider. No claimant shall have any right of action directly against the fund. No claimant shall have any right of action under this act directly against an insurer.

(b) Evidence that a portion of any verdict would be payable from insurance or the fund shall be inadmissible in any such action.

(c) Nothing ~~herein~~ *in this act* shall be construed to impose any liability in the fund in excess of that specifically provided for ~~herein~~ *in this act* for negligent failure to settle a claim or for failure to settle a claim in good faith.

(d) The fund shall have no obligations whatsoever for payment for punitive damages.

(e) The fund shall not be liable to pay amounts due from a judgment against an inactive health care provider arising from the rendering of professional services as a health care provider contrary to the provisions of this act.

(f) Any action for damages or for approval of a settlement as set forth in K.S.A. 40-3409, 40-3410 or 40-3411, *and amendments thereto*, shall be brought in a court of appropriate jurisdiction and venue.

Sec. 15. K.S.A. 40-3413 is hereby amended to read as follows: 40-3413. (a) Every insurer and every rating organization shall cooperate in the preparation of a plan or plans for the equitable apportionment among such insurers of applicants for professional liability insurance and such other liability insurance as may be included in or added to the plan, who are in good faith entitled to such insurance but are unable to procure the same through ordinary methods. Such plan or plans shall be prepared and filed with the commissioner and the board of governors within a reasonable time but not exceeding 60 calendar days from the effective date of this act. Such plan or plans shall provide:

(1) Reasonable rules governing the equitable distribution of risks by direct insurance, reinsurance or otherwise including the authority to make assessments against the insurers participating in the plan or plans;

(2) rates and rate modifications applicable to such risks which shall be reasonable, adequate and not unfairly discriminatory;

(3) a method whereby periodically the plan shall compare the premiums earned to the losses and expenses sustained by the plan. If there is any surplus of premiums over losses and expenses received for that year such surplus shall be transferred to the fund. If there is any excess of losses and expenses over premiums earned such losses shall be transferred from the fund, however such transfers shall not occur more often than once each three months;

(4) the limits of liability which the plan shall be required to provide, but in no event shall such limits be less than those limits provided for in subsection (a) of K.S.A. 40-3402, and amendments thereto;

(5) a method whereby applicants for insurance, insureds and insurers may have a hearing on grievances and the right of appeal to the commissioner.

(b) *For every such plan or plans, there shall be a governing board which shall meet at least annually to review and prescribe operating rules. Such board of directors shall consist of nine members to be appointed, for terms of four years, by the commissioner as follows:*

(1) *Two members shall be representatives of foreign insurers;*

(2) *two members shall be representatives of domestic insurers;*

(3) *two members shall be health care providers;*

(4) *one member shall be a licensed insurance agent actively engaged in the solicitation of casualty insurance;*

(5) *one member shall be the chairperson of the board of governors or the chairperson's designee; and*

(6) *one member shall be a representative of the general public.*

(c) The commissioner and board of ~~governors~~ directors shall review the plan as soon as reasonably possible after filing in order to determine whether it meets the requirements set forth in subsection (a). As soon as reasonably possible after the plan has been filed the commissioner, consistent with the recommendations of the board of ~~governors~~ directors, shall in writing approve or disapprove the plan. Any plan shall be deemed approved unless disapproved within 30 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 subsection (a), but only after a hearing held upon not less than 10 days' written notice to every insurer and rating organization affected 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 the 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)~~ (d) If no plan meeting the standards set forth in subsection (a) is submitted to the commissioner and board of ~~governors~~ directors within 60 calendar days from the effective date of this act or within the period stated in any order disapproving an existing plan, the commissioner with the assistance of the board of ~~governors~~ directors shall after a hearing, if necessary to carry out the purpose of this act, prepare and promulgate a plan meeting such requirements.

~~(d)~~ (e) If, after a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, the commissioner and board

of ~~governors~~ *directors* find 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 act, the commissioner and board of ~~governors~~ *directors* 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 act and requiring discontinuance of such activity or practice.

~~(e) For every such plan or plans, there shall be a governing board which shall meet at least annually to review and prescribe operating rules. Such board shall consist of nine members to be appointed by the commissioner as follows: Three members shall be representatives of foreign insurers, two members shall be representatives of domestic insurers, two members shall be representatives of the general public, one member shall be a licensed insurance agent actively engaged in the solicitation of casualty insurance and one member shall be a health care provider. The members shall be appointed for a term of two years.~~

(f) An insurer participating in the plan approved by the commissioner may pay a commission with respect to insurance written under the plan to an insurance agent licensed for any other insurer participating in the plan or to any insurer participating in the plan. Such commission shall be reasonably equivalent to the usual customary commission paid on similar types of policies issued in the voluntary market.

*(g) Notwithstanding the provisions of K.S.A. 40-3402, and amendments thereto, the plan shall make available policies of professional liability insurance covering prior acts. Such professional liability insurance policies shall have limits of coverage not exceeding \$1,000,000 per claim, subject to not more than \$3,000,000 annual aggregate liability for all claims made as a result of personal injury or death arising out of the rendering of or the failure to render professional services within this state on or before December 31, 2014. Such professional liability insurance policies shall be made available only to physician assistants licensed by the state board of healing arts, licensed advanced practice registered nurses authorized by the state board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, nursing facilities licensed by the state of Kansas, assisted living facilities licensed by the state of Kansas and residential health care facilities licensed by the state of Kansas that will be in compliance with K.S.A. 40-3402, and amendments thereto, on January 1, 2015. The premiums for such professional liability insurance policies shall be based upon reasonably prudent actuarial principles. The provisions of this subsection shall expire on January 1, 2016.*

Sec. 16. K.S.A. 2013 Supp. 40-3414 is hereby amended to read as follows: 40-3414. (a) Any health care provider, or any health care system organized and existing under the laws of this state which owns and op-

erates two or more medical care facilities licensed by the ~~department of health and environment~~ *state of Kansas*, whose aggregate annual insurance premium is or would be \$100,000 or more for basic coverage calculated in accordance with rating procedures approved by the commissioner pursuant to K.S.A. 40-3413, and amendments thereto, may qualify as a self-insurer by obtaining a certificate of self-insurance from the board of governors. Upon application of any such health care provider or health care system, on a form prescribed by the board of governors, the board of governors may issue a certificate of self-insurance if the board of governors is satisfied that the applicant is possessed and will continue to be possessed of ability to pay any judgment for which liability exists equal to the amount of basic coverage required of a health care provider obtained against such applicant arising from the applicant's rendering of professional services as a health care provider. In making such determination the board of governors shall consider (1) the financial condition of the applicant, (2) the procedures adopted and followed by the applicant to process and handle claims and potential claims, (3) the amount and liquidity of assets reserved for the settlement of claims or potential claims and (4) any other relevant factors. The certificate of self-insurance may contain reasonable conditions prescribed by the board of governors. Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the board of governors may cancel a certificate of self-insurance upon reasonable grounds therefor. Failure to pay any judgment for which the self-insurer is liable arising from the self-insurer's rendering of professional services as a health care provider, the failure to comply with any provision of this act or the failure to comply with any conditions contained in the certificate of self-insurance shall be reasonable grounds for the cancellation of such certificate of self-insurance. The provisions of this subsection shall not apply to the Kansas soldiers' home, the Kansas veterans' home or to any person who is a self-insurer pursuant to subsection (d) or (e).

(b) Any such health care provider or health care system that holds a certificate of self-insurance shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402, and amendments thereto.

(c) The Kansas soldiers' home and the Kansas veterans' home shall be self-insurers and shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402, and amendments thereto.

(d) Persons engaged in residency training as provided in subsections (r)(1) and (2) of K.S.A. 40-3401, and amendments thereto, shall be self-insured by the state of Kansas for occurrences arising during such training, and such person shall be deemed a self-insurer for the purposes of the health care provider insurance availability act. Such self-insurance shall be applicable to a person engaged in residency training only when such person is engaged in medical activities which do not include extra-curricular, extra-institutional medical service for which such person re-

ceives extra compensation and which have not been approved as provided in subsections (r)(1) and (2) of K.S.A. 40-3401, and amendments thereto.

(e) (1) A person engaged in a postgraduate training program approved by the state board of healing arts at a medical care facility or mental health center in this state may be self-insured by such medical care facility or mental health center in accordance with this subsection (e) and in accordance with such terms and conditions of eligibility therefor as may be specified by the medical care facility or mental health center and approved by the board of governors. A person self-insured under this subsection (e) by a medical care facility or mental health center shall be deemed a self-insurer for purposes of the health care provider insurance availability act. Upon application by a medical care facility or mental health center, on a form prescribed by the board of governors, the board of governors may authorize such medical care facility or mental health center to self-insure persons engaged in postgraduate training programs approved by the state board of healing arts at such medical care facility or mental health center if the board of governors is satisfied that the medical care facility or mental health center is possessed and will continue to be possessed of ability to pay any judgment for which liability exists equal to the amount of basic coverage required of a health care provider obtained against a person engaged in such a postgraduate training program and arising from such person's rendering of or failure to render professional services as a health care provider.

(2) In making such determination the board of governors shall consider: (A) The financial condition of the medical care facility or mental health center; (B) the procedures adopted by the medical care facility or mental health center to process and handle claims and potential claims; (C) the amount and liquidity of assets reserved for the settlement of claims or potential claims by the medical care facility or mental health center; and (D) any other factors the board of governors deems relevant. The board of governors may specify such conditions for the approval of an application as the board of governors deems necessary. Upon approval of an application, the board of governors shall issue a certificate of self-insurance to each person engaged in such postgraduate training program at the medical care facility or mental health center who is self-insured by such medical care facility or mental health center.

(3) Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the board of governors may cancel, upon reasonable grounds therefor, a certificate of self-insurance issued pursuant to this subsection (e) or the authority of a medical care facility or mental health center to self-insure persons engaged in such postgraduate training programs at the medical care facility or mental health center. Failure of a person engaged in such postgraduate training program to comply with the terms and conditions of eligibility to be self-insured by the medical care facility or mental health center, the failure

of a medical care facility or mental health center to pay any judgment for which such medical care facility or mental health center is liable as self-insurer of such person, the failure to comply with any provisions of the health care provider insurance availability act or the failure to comply with any conditions for approval of the application or any conditions contained in the certificate of self-insurance shall be reasonable grounds for cancellation of such certificate of self-insurance or the authority of a medical care facility or mental health center to self-insure such persons.

(4) A medical care facility or mental health center authorized to self-insure persons engaged in such postgraduate training programs shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402, and amendments thereto, on behalf of such persons.

(5) As used in this subsection (e), “medical care facility” does not include the university of Kansas medical center or those community hospitals or medical care facilities described in subsection (r)(2) of K.S.A. 40-3401, and amendments thereto.

(f) For the purposes of subsection (a), “health care provider” may include each health care provider in any group of health care providers who practice as a group to provide physician services only for a health maintenance organization, any professional corporations, partnerships or not-for-profit corporations formed by such group and the health maintenance organization itself. The premiums for each such provider, health maintenance organization and group corporation or partnership may be aggregated for the purpose of being eligible for and subject to the statutory requirements for self-insurance as set forth in this section.

(g) The provisions of subsections (a) and (f), relating to health care systems, shall not affect the responsibility of individual health care providers as defined in subsection (f) of K.S.A. 40-3401, and amendments thereto, or organizations whose premiums are aggregated for purposes of being eligible for self-insurance from individually meeting the requirements imposed by K.S.A. 40-3402, and amendments thereto, with respect to the ability to respond to injury or damages to the extent specified therein and K.S.A. 40-3404, and amendments thereto, with respect to the payment of the health care stabilization fund surcharge.

(h) Each private practice corporation or foundation and their full-time physician faculty employed by the university of Kansas medical center and each nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be deemed a self-insurer for the purposes of the health care provider insurance availability act. The private practice corporation or foundation of which the full-time physician faculty is a member and each nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall pay the applicable surcharge

set forth in subsection (a) of K.S.A. 40-3404, and amendments thereto, on behalf of the private practice corporation or foundation and their full-time physician faculty employed by the university of Kansas medical center or on behalf of a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine.

(i) (1) Subject to the provisions of paragraph (4), for the purposes of the health care provider insurance availability act, each nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be deemed to have been a health care provider as defined in K.S.A. 40-3401, and amendments thereto, from and after July 1, 1997.

(2) Subject to the provisions of paragraph (4), for the purposes of the health care provider insurance availability act, each nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be deemed to have been a self-insurer within the meaning of subsection (h) of this section, and amendments thereto, from and after July 1, 1997.

(3) Subject to the provisions of paragraph (4), for the purposes of the health care provider insurance availability act, the election of fund coverage limits for each nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be deemed to have been effective at the highest option, as provided in subsection (l) of K.S.A. 40-3403, and amendments thereto, from and after July 1, 1997.

(4) No nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be required to pay to the fund any annual premium surcharge for any period prior to the effective date of this act. Any annual premium surcharge for the period commencing on the effective date of this act and ending on June 30, 2001, shall be prorated.

Sec. 17. K.S.A. 40-3416 is hereby amended to read as follows: 40-3416. When the board of governors is informed or reasonably suspects that a health care provider ~~is rendering~~ *licensed to render* professional services *is* in violation of K.S.A. 40-3402, and amendments thereto, such board shall report the suspected violation to the state agency which licenses, registers or certifies such health care provider. Upon receipt of such report or other evidence of a violation of K.S.A. 40-3402, and amendments thereto, the state agency shall make such investigation as it deems necessary and take such other official action as deemed appropriate. If a

violation is found to exist, the state agency shall promptly notify the attorney general of this state. Upon such notice the attorney general or county attorney of the proper county shall, in the name of the state, institute and maintain an action to enjoin the health care provider from rendering professional services in this state in the district court of the district in which such health care provider is rendering professional services.

Sec. 18. K.S.A. 40-3419 is hereby amended to read as follows: 40-3419. K.S.A. 40-3401 to 40-3419, inclusive *et seq.*, and amendments thereto, shall be known and may be cited as the health care provider insurance availability act.

Sec. 19. K.S.A. 2013 Supp. 40-3421 is hereby amended to read as follows: 40-3421. (a) Any insurer providing professional liability insurance coverage to a health care provider, as defined by K.S.A. 40-3401, and amendments thereto, who is licensed in Kansas shall report to the appropriate state health care provider regulatory agency and the board of governors on forms prescribed by the board of governors any written or oral claim or action for damages for medical malpractice. The report shall be filed no later than 30 days following the insurer's receipt of notice of the claim or action and shall contain:

(1) The name, address, area of practice or specialty, policy coverage and policy number of the insured; and

(2) the date of the occurrence giving rise to the claim, the date the occurrence was reported to the insurer, and the date legal action, if any, was initiated.

(b) Upon request of an agency to which a report is made under subsection (a), the insurer making the report shall provide to the agency no later than 30 days following receipt of the request or receipt of the information, whichever is later:

(1) The names of all defendants involved in the claim; and

(2) a summary of the occurrence, including the name of the institution at which the incident occurred, the final diagnosis for which treatment was sought or rendered, the patient's actual condition, the incident, treatment or diagnosis giving rise to the claim and a description of the principal injury giving rise to the claim.

(c) Reports required to be filed pursuant to this section shall be confidential and shall not be admissible in any civil or criminal action or in any administrative proceeding other than a disciplinary proceeding of a health care provider involved in the reported occurrence.

(d) Any insurer which fails to report any information as required by this section shall be subject, after proper notice and an opportunity to be heard, to:

(1) a civil fine assessed by the board of governors in an amount not

exceeding \$1,000 for each day after the thirty-day period for reporting that the information is not reported; ~~and~~

~~(2) suspension, revocation, denial of renewal or cancellation of the insurer's certificate of authority to do business in this state or certificate of self-insurance. In the event that a civil fine is assessed pursuant to this subsection, the reason for and the amount of such fine shall be reported to the commissioner.~~ The board of governors shall remit any moneys collected from fines assessed pursuant to this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(e) Any insurer which, in good faith, reports or provides any information pursuant to this act shall not be liable in a civil action for damages or other relief arising from the reporting or providing of such information.

(f) As used in this section, "insurer" means insurer or self-insurer, as defined by K.S.A. 40-3401, and amendments thereto, or joint underwriting association operating pursuant to K.S.A. 40-3413, and amendments thereto.

(g) The requirements of this section shall not be applicable with respect to any occurrence on or after July 1, 1991, giving rise to any claim or action against any optometrist or pharmacist.

(h) The requirements of this section shall not be applicable with respect to any occurrence on or after July 1, 1995, giving rise to any claim or action against any physical therapist.

Sec. 20. K.S.A. 40-3422 is hereby amended to read as follows: 40-3422. In any medical malpractice liability action, as defined by K.S.A. 60-3401, and amendments thereto, the proceedings shall be stayed on appeal by the filing of a supersedeas bond in the full amount of the judgment ~~against the health care provider for which the fund is liable. Such supersedeas bond shall be signed by the chairperson of the board of governors, or the chairperson's designee, as administrator of the health care stabilization fund without surety or other security.~~

Sec. 21. K.S.A. 40-12a02, 40-12a06, 40-12a09, 40-3402, 40-3403a, 40-3403b, 40-3407, 40-3408, 40-3411, 40-3412, 40-3413, 40-3416, 40-3419 and 40-3422 and K.S.A. 2013 Supp. 40-3401, 40-3403, 40-3404, 40-3414 and 40-3421 are hereby repealed.

Sec. 22. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 57

Senate Substitute for HOUSE BILL No. 2378  
(Amended by Chapter 132)

AN ACT concerning sales taxation; relating to exemptions; certain machinery and equipment used in surface mining activities; amending K.S.A. 2013 Supp. 79-3606 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301, and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross receipts from regulated sports contests taxed pursuant to the Kansas professional regulated sports act, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business; or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, a public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school, educational institution or a state correctional institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or department of corrections concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under

this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or the contractor contracting with the department of corrections for a correctional institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As

an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603, and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "drug" means a compound, substance or preparation and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages, recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, and supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or intended to affect the structure or any function of the body, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of drugs used in the performance or induction of an abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of oxygen delivery equipment, kidney dialysis equipment, enteral feeding systems, prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of

hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and repair and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) “Mobility enhancing equipment” means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) “prosthetic device” means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

(s) except as provided in K.S.A. 2013 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq., and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 et seq., 19-3522 et seq., or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term “farm machinery and equipment or aquaculture machinery and equipment” shall include a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, and is equipped with a bed or cargo box for hauling materials, and shall also include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto. “Farm machinery and equipment” includes precision farming equipment that is portable or is installed or purchased to be installed on farm machinery and equipment. “Precision farming equipment” includes the following items used only in computer-assisted farming, ranching or aquaculture production operations: Soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guiding systems, modems, data communications equipment and any necessary mounting hardware, wiring and antennas. Each purchaser of farm

machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of tangible personal property to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of tangible personal property for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose, and all sales of food products by or on behalf of any such contractor or organization for any such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b, *Second through Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of natural gas, electricity and heat delivered through mains, lines or pipes pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions of this subsection shall expire on December 31, 2005;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises occurring prior to January 1, 2006;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418, and amendments thereto;

(aa) all sales of materials and services applied to equipment which is

transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) “Mobile homes” and “manufactured homes” shall have the meanings ascribed thereto by K.S.A. 58-4202, and amendments thereto; and (2) “sales of used mobile homes or manufactured homes” means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased prior to January 1, 2012, except as otherwise provided, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115, and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business, and all sales of tangible personal property or services purchased on or after January 1, 2012, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business which meets the requirements established in K.S.A. 74-50,115(e), and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. As used in this subsection, “business” and “retail business” have the meanings respectively ascribed thereto by K.S.A. 74-50,114, and amendments thereto. Project exemption certificates that

have been previously issued under this subsection by the department of revenue pursuant to K.S.A. 74-50,115, and amendments thereto, but not including K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012, and have not expired will be effective for the term of the project or two years from the effective date of the certificate, whichever occurs earlier. Project exemption certificates that are submitted to the department of revenue prior to January 1, 2012, and are found to qualify will be issued a project exemption certificate that will be effective for a two-year period or for the term of the project, whichever occurs earlier;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, “mobile homes” and “manufactured homes” shall have the meanings ascribed thereto by K.S.A. 58-4202, and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment, including durable medical equipment, purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes. As used in this subsection, “durable medical equipment” means equipment including repair and replacement parts for such equipment, which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury and is not worn in or on the body, but does not include mobility enhancing equipment as defined in subsection (r), oxygen delivery equipment, kidney dialysis equipment or enteral feeding systems;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based facility for people with intellectual disability or mental health center organized pursuant to K.S.A. 19-4001 et seq.,

and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto, and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2006, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based facility for people with intellectual disability or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) “Integrated production operation” means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) “production line” means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) “manufacturing or processing plant or facility” means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) “manufacturing or processing business” means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as

part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) “repair and replacement parts and accessories” means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) “primary” or “primarily” mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing

manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from off-site, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations,

including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; ~~and~~ (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E); *and (F) all machinery and equipment used in surface mining activities as described in K.S.A. 49-601 et seq., and amendments thereto, beginning from the time a reclamation plan is filed to the acceptance of the completed final site reclamation.*

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such materials purchased by a nonprofit corporation which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such tangible personal property purchased by a

nonprofit organization which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease;

(8) the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(9) the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities;

(10) the Cystic Fibrosis Foundation, Heart of America Chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease;

(11) the spina bifida association of Kansas for the purpose of providing financial, educational and practical aid to families and individuals with spina bifida. Such aid includes, but is not limited to, funding for medical devices, counseling and medical educational opportunities;

(12) the CHWC, Inc., for the purpose of rebuilding urban core neighborhoods through the construction of new homes, acquiring and renovating existing homes and other related activities, and promoting economic development in such neighborhoods;

(13) the cross-lines cooperative council for the purpose of providing social services to low income individuals and families;

(14) the Dreams Work, Inc., for the purpose of providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family;

(15) the KSDS, Inc., for the purpose of promoting the independence and inclusion of people with disabilities as fully participating and contributing members of their communities and society through the training and providing of guide and service dogs to people with disabilities, and providing disability education and awareness to the general public;

(16) the lyme association of greater Kansas City, Inc., for the purpose of providing support to persons with lyme disease and public education relating to the prevention, treatment and cure of lyme disease;

(17) the Dream Factory, Inc., for the purpose of granting the dreams of children with critical and chronic illnesses;

(18) the Ottawa Suzuki Strings, Inc., for the purpose of providing students and families with education and resources necessary to enable each child to develop fine character and musical ability to the fullest potential;

(19) the International Association of Lions Clubs for the purpose of creating and fostering a spirit of understanding among all people for humanitarian needs by providing voluntary services through community involvement and international cooperation;

(20) the Johnson county young matrons, inc., for the purpose of promoting a positive future for members of the community through volun-

teerism, financial support and education through the efforts of an all volunteer organization;

(21) the American Cancer Society, Inc., for the purpose of eliminating cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy and service;

(22) the community services of Shawnee, inc., for the purpose of providing food and clothing to those in need;

(23) the angel babies association, for the purpose of providing assistance, support and items of necessity to teenage mothers and their babies; and

(24) the Kansas fairgrounds foundation for the purpose of the preservation, renovation and beautification of the Kansas state fairgrounds;

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other

project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved,

and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the pri-

mary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such tangible personal property and services purchased by a primary care clinic or health center which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor,

shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation;

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials;

(hhh) all sales of tangible personal property and services purchased by or on behalf of all domestic violence shelters that are member agencies of the Kansas coalition against sexual and domestic violence;

(iii) all sales of personal property and services purchased by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in

the collection, storage and distribution of food products to nonprofit organizations which distribute such food products to persons pursuant to a food distribution program on a charitable basis without fee or charge, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities used for the collection and storage of such food products for any such organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 2005, but prior to the effective

date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(jjj) all sales of dietary supplements dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (1) Contains one or more of the following dietary ingredients: A vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract or combination of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion, in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (3) is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. § 101.36;

(lll) all sales of tangible personal property and services purchased by special olympics Kansas, inc. for the purpose of providing year-round sports training and athletic competition in a variety of olympic-type sports for individuals with intellectual disabilities by giving them continuing opportunities to develop physical fitness, demonstrate courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, other special olympics athletes and the community, and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization;

(mmm) all sales of tangible personal property purchased by or on behalf of the Marillac Center, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing psycho-social-biological and special education services to children, and all sales of any such property by or on behalf of such organization for such purpose;

(nnn) all sales of tangible personal property and services purchased by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable Fund for the purpose of constructing a boundless playground which is an integrated, barrier free and developmentally advantageous play environment for children of all abilities and disabilities;

(ooo) all sales of tangible personal property by or on behalf of a public library serving the general public and supported in whole or in part with tax money or a not-for-profit organization whose purpose is to raise funds for or provide services or other benefits to any such public library;

(ppp) all sales of tangible personal property and services purchased by or on behalf of a homeless shelter which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal income tax code of 1986, and used by any such homeless shelter to provide emergency and transitional housing for individuals and families experiencing homelessness, and all sales of any such property by or on behalf of any such homeless shelter for any such purpose;

(qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of

the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(rrr) all sales of tangible personal property and services purchased by any county law library maintained pursuant to law and sales of tangible personal property and services purchased by an organization which would have been exempt from taxation under the provisions of this subsection if purchased directly by the county law library for the purpose of providing legal resources to attorneys, judges, students and the general public, and all sales of any such property by or on behalf of any such county law library;

(sss) all sales of tangible personal property and services purchased by catholic charities or youthville, hereinafter referred to as charitable family providers, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of charitable family providers for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for charitable family providers for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by charitable family providers. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for charitable family providers. When charitable family providers contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon

completion of the project the contractor shall furnish to charitable family providers a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, charitable family providers shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ttt) all sales of tangible personal property or services purchased by a contractor for a project for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which has been granted an exemption pursuant to subsection (qq), which such home or facility is located in a city which has been designated as a qualified hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and amendments thereto, and which such project is related to the purposes of K.S.A. 75-5071 et seq., and amendments thereto, and which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit museum. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility for any such nonprofit museum. When any such nonprofit museum shall contract for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute

invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such nonprofit museum a sworn statement on a form to be provided by the director of taxation that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in a home or facility or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such nonprofit museum shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing for the prevention and treatment of child abuse and maltreatment as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of KCSL for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for KCSL for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by KCSL. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for KCSL. When KCSL contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of

such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to KCSL a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, KCSL shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(vvv) all sales of tangible personal property or services, including the renting and leasing of tangible personal property or services, purchased by Jazz in the Woods, Inc., a Kansas corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing Jazz in the Woods, an event benefiting children-in-need and other nonprofit charities assisting such children, and all sales of any such property by or on behalf of such organization for such purpose;

(www) all sales of tangible personal property purchased by or on behalf of the Frontenac Education Foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education support for students, and all sales of any such property by or on behalf of such organization for such purpose;

(xxx) all sales of personal property and services purchased by the booth theatre foundation, inc., an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of

the booth theatre, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the booth theatre for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after January 1, 2007, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any

additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(yyy) all sales of tangible personal property and services purchased by TLC charities foundation, inc., hereinafter referred to as TLC charities, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of encouraging private philanthropy to further the vision, values, and goals of TLC for children and families, inc.; and all sales of such property and services by or on behalf of TLC charities for any such purpose and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC charities for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC charities. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC charities. When TLC charities contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC charities a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be incorporated into the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC charities shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any

contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(zzz) all sales of tangible personal property purchased by the rotary club of shawnee foundation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended, used for the purpose of providing contributions to community service organizations and scholarships;

(aaaa) all sales of personal property and services purchased by or on behalf of victory in the valley, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing a cancer support group and services for persons with cancer, and all sales of any such property by or on behalf of any such organization for any such purpose;

(bbbb) all sales of entry or participation fees, charges or tickets by Guadalupe health foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for such organization's annual fundraising event which purpose is to provide health care services for uninsured workers;

(cccc) all sales of tangible personal property or services purchased by or on behalf of wayside waifs, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing such organization's annual fundraiser, an event whose purpose is to support the care of homeless and abandoned animals, animal adoption efforts, education programs for children and efforts to reduce animal over-population and animal welfare services, and all sales of any such property, including entry or participation fees or charges, by or on behalf of such organization for such purpose;

(dddd) all sales of tangible personal property or services purchased by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc., both of which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment;

(eeee) all sales of tangible personal property or services purchased by or on behalf of All American Beef Battalion, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of educating, promoting and participating as a contact group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services;

(ffff) all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or intellectual disability, or both, and all sales of any such property by or on behalf of sheltered living, inc., for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc., for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc., contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc., a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc., shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon

conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto; and

(gggg) all sales of game birds for which the primary purpose is use in hunting.

Sec. 2. K.S.A. 2013 Supp. 79-3606 is hereby repealed.

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

Approved April 16, 2014.

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## CHAPTER 58

### HOUSE BILL No. 2728

AN ACT concerning motor vehicles; relating to salvage titles; permits, number of copies; acquisitions; amending K.S.A. 2013 Supp. 8-198 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 8-198 is hereby amended to read as follows: 8-198. (a) A nonhighway or salvage vehicle shall not be required to be registered in this state, as provided in K.S.A. 8-135, and amendments thereto, but nothing in this section shall be construed as abrogating, limiting or otherwise affecting the provisions of K.S.A. 8-142, and amendments thereto, which make it unlawful for any person to operate or knowingly permit the operation in this state of a vehicle required to be registered in this state.

(b) Upon the sale or transfer of any nonhighway vehicle or salvage vehicle, the purchaser thereof shall obtain a nonhighway certificate of title or salvage title, whichever is applicable, in the following manner:

(1) If the transferor is a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for such vehicle under this section or under the provisions of K.S.A. 8-135, and amendments thereto, such transferor shall make application for and assign a nonhighway certificate of title or a salvage title, whichever is applicable, to the purchaser of such nonhighway vehicle or salvage vehicle in the same manner and under the same conditions prescribed by K.S.A. 8-135, and amendments thereto, for the application for and assignment of a certificate of title thereunder. Upon the assignment thereof, the purchaser shall make application for a new nonhighway certificate of title or salvage title, as provided in subsection (c) or (d).

(2) Except as provided in subsection (b) of K.S.A. 8-199, and amendments thereto, if a certificate of title has been issued for any such vehicle under the provisions of K.S.A. 8-135, and amendments thereto, the owner of such nonhighway vehicle or salvage vehicle may surrender such certif-

icate of title to the division of vehicles and make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, or the owner may obtain from the county treasurer's office a form prescribed by the division of vehicles and, upon proper execution thereof, may assign the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached to the purchaser of the nonhighway vehicle or salvage vehicle. Upon receipt of the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached, the purchaser shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(3) If the transferor is not a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for the vehicle under this section or a certificate of title was not required under K.S.A. 8-135, and amendments thereto, the transferor shall make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, as provided in this section, except that in addition thereto, the division shall require a bill of sale or such transferor's affidavit, with at least one other corroborating affidavit, that such transferor is the owner of such nonhighway vehicle or salvage vehicle. If the division is satisfied that the transferor is the owner, the division shall issue a nonhighway certificate of title or salvage title, whichever is applicable, for such vehicle, and the transferor shall assign the same to the purchaser, who shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(c) Every purchaser of a nonhighway vehicle, whether assigned a nonhighway certificate of title or a regular certificate of title with the form specified in paragraph (2) of subsection (b) attached, shall make application to the county treasurer of the county in which such person resides for a new nonhighway certificate of title in the same manner and under the same conditions as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under subsection (c)(1) of K.S.A. 8-135, and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for a nonhighway certificate of title is made is a nonhighway vehicle and other provisions the director deems necessary. Each application for a nonhighway certificate of title shall be accompanied by a fee of \$10, and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of \$2.

(d) (1) Except as otherwise provided by this section, the owner of a

vehicle that meets the definition of a salvage vehicle shall apply for a salvage title before the ownership of the motor vehicle is transferred. In no event shall such application be made more than 60 days after the vehicle is determined to be a salvage vehicle.

(2) Every insurance company, which pursuant to a damage settlement, acquires ownership of a vehicle that has incurred damage requiring the vehicle to be designated a salvage vehicle, shall apply for a salvage title within 60 days after the title is assigned and delivered by the owner to the insurance company, with all liens released. *In the event that an insurance company is unable to obtain voluntary assignment of the title after 30 days from the date the vehicle owner enters into an oral or written damage settlement agreement where the owner agrees to transfer the title, the insurance company may submit an application on a form prescribed by the division for a salvage title. The form shall be accompanied by an affidavit from the insurance company stating that: (A) The insurance company is unable to obtain a transfer of the title from the owner following an oral or written acceptance of an offer of damage settlement; (B) there is evidence of the damage settlement; (C) that there are no existing liens on the vehicle or all liens on the vehicle have been released; (D) the insurance company has physical possession of the vehicle; and (E) the insurance company has provided the owner, at the owner's last known address, 30 days' prior notice of such intent to transfer and the owner has not delivered a written objection to the insurance company.*

(3) Every insurance company which makes a damage settlement for a vehicle that has incurred damage requiring such vehicle to be designated a salvage vehicle, but does not acquire ownership of the vehicle, shall notify the vehicle owner of the owner's obligation to apply for a salvage title for the motor vehicle, and shall notify the division of this fact in accordance with procedures established by the division. The vehicle owner shall apply for a salvage title within 60 days after being notified by the insurance company.

(4) The lessee of any vehicle which incurs damage requiring the vehicle to be designated a salvage vehicle shall notify the lessor of this fact within 30 days of the determination that the vehicle is a salvage vehicle.

(5) The lessor of any motor vehicle which has incurred damage requiring the vehicle to be titled as a salvage vehicle, shall apply for a salvage title within 60 days after being notified of this fact by the lessee.

(6) Every person acquiring ownership of a motor vehicle that meets the definition of a salvage vehicle, for which a salvage title has not been issued, shall apply for the required document prior to any further transfer of such vehicle, but in no event, more than 60 days after ownership is acquired.

(7) Every purchaser of a salvage vehicle, whether assigned a salvage title or a regular certificate of title with the form specified in paragraph (2) of subsection (b) attached, shall make application to the county trea-

surer of the county in which such person resides for a new salvage title, in the same manner and under the same condition as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under subsection (c)(1) of K.S.A. 8-135, and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for salvage title is made is a salvage vehicle, and other provisions the director deems necessary. Each application for a salvage title shall be accompanied by a fee of \$10 and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of \$2.

(8) Failure to apply for a salvage title as provided by this subsection shall be a class C nonperson misdemeanor.

(e) A nonhighway certificate of title or salvage title shall be in form and color as prescribed by the director of vehicles. A nonhighway certificate of title or salvage title shall indicate clearly and distinctly on its face that it is issued for a nonhighway vehicle or salvage vehicle, whichever is applicable. A nonhighway certificate of title or salvage title shall contain substantially the same information as required on a certificate of title issued under K.S.A. 8-135, and amendments thereto, and other information the director deems necessary.

(f) (1) A nonhighway certificate of title or salvage title may be transferred in the same manner and under the same conditions as prescribed by K.S.A. 8-135, and amendments thereto, for the transfer of a certificate of title, except as otherwise provided in this section. A nonhighway certificate of title or salvage title may be assigned and transferred only while the vehicle remains a nonhighway vehicle or salvage vehicle.

(2) Upon transfer or sale of a nonhighway vehicle in a condition which will allow the registration of such vehicle, the owner shall assign the nonhighway certificate of title to the purchaser, and the purchaser shall obtain a certificate of title and register such vehicle as provided in K.S.A. 8-135, and amendments thereto. No regular certificate of title shall be issued for a vehicle for which there has been issued a nonhighway certificate of title until there has been compliance with K.S.A. 8-116a, and amendments thereto.

(3) (A) Upon transfer or sale of a salvage vehicle which has been rebuilt or restored or is otherwise in a condition which will allow the registration of such vehicle, the owner shall assign the salvage title to the purchaser, and the purchaser shall obtain a rebuilt salvage title and register such vehicle as provided in K.S.A. 8-135, and amendments thereto. No rebuilt salvage title shall be issued for a vehicle for which there has been issued a salvage title until there has been compliance with K.S.A.

8-116a, and amendments thereto, and the notice required in paragraph (3)(B) of this subsection has been attached to such vehicle.

(B) As part of the inspection for a rebuilt salvage title conducted under K.S.A. 8-116a, and amendments thereto, the Kansas highway patrol shall attach a notice affixed to the left door frame of the rebuilt salvage vehicle indicating the vehicle identification number of such vehicle and that such vehicle is a rebuilt salvage vehicle. In addition to any fee allowed under K.S.A. 8-116a, and amendments thereto, a fee of \$5 shall be collected from the owner of such vehicle requesting the inspection for the notice required under this paragraph. All moneys received under this paragraph shall be remitted in accordance with subsection (e) of K.S.A. 8-116a, and amendments thereto.

(C) Failure to apply for a rebuilt salvage title as provided by this paragraph shall be a class C nonperson misdemeanor.

(g) The owner of a salvage vehicle which has been issued a salvage title and has been assembled, reconstructed, reconstituted or restored or otherwise placed in an operable condition may make application to the county treasurer for a permit to operate such vehicle on the highways of this state over the most direct route from the place such salvage vehicle is located to a specified location named on the permit and to return to the original location. No such permit shall be issued for any vehicle unless the owner has motor vehicle liability insurance coverage or an approved self-insurance plan under K.S.A. 40-3104, and amendments thereto. Such permit shall be on a form furnished by the director of vehicles and shall state the date the vehicle is to be taken to the other location, the name of the insurer, as defined in K.S.A. 40-3103, and amendments thereto, and the policy number or a statement that the vehicle is included in a self-insurance plan approved by the commissioner of insurance, a statement attesting to the correctness of the information concerning financial security, the vehicle identification number and a description of the vehicle. Such permit shall be signed by the owner of the vehicle. ~~Permits issued under this subsection (g) shall be prepared in triplicate. One copy~~ *The permit shall be carried in the vehicle for which it is issued and shall be displayed so that it is visible from the rear of the vehicle. ~~The second copy shall be retained by the county treasurer, and the third copy shall be forwarded by the county treasurer to the division of vehicles.~~* The fee for such permit shall be \$1 which shall be retained by the county treasurer, who shall annually forward 25% of all such fees collected to the division of vehicles to reimburse the division for administrative expenses, and shall deposit the remainder in a special fund for expenses of issuing such permits.

(h) A nonhighway vehicle or salvage vehicle for which a nonhighway certificate of title or salvage title has been issued pursuant to this section shall not be deemed a motor vehicle for the purposes of K.S.A. 40-3101 to 40-3121, inclusive, and amendments thereto, except when such vehicle

is being operated pursuant to subsection (g). Any person who knowingly makes a false statement concerning financial security in obtaining a permit pursuant to subsection (g), or who fails to obtain a permit when required by law to do so is guilty of a class C misdemeanor.

(i) Any person who, on July 1, 1996, is the owner of an all-terrain vehicle, as defined in K.S.A. 8-126, and amendments thereto, shall not be required to file an application for a nonhighway certificate of title under the provisions of this section for such all-terrain vehicle, unless the person transfers an interest in such all-terrain vehicle.

(j) Any person who, on July 1, 2006, is the owner of a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, shall not be required to file an application for a nonhighway certificate of title under the provisions of this section for such work-site utility vehicle, unless the person transfers an interest in such work-site utility vehicle.

Sec. 2. K.S.A. 2013 Supp. 8-198 is hereby repealed.

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

Approved April 16, 2014.

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## CHAPTER 59

### HOUSE BILL No. 2724

AN ACT concerning the uniform commercial driver's license act; definitions, tank vehicle; amending K.S.A. 2013 Supp. 8-2,128 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 8-2,128 is hereby amended to read as follows: 8-2,128. As used in this act:

- (a) "Alcohol" means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol and isopropanol;
- (b) "alcohol concentration" means:
  - (1) The number of grams of alcohol per 100 milliliters of blood; or
  - (2) the number of grams of alcohol per 210 liters of breath;
- (c) "commercial driver's license" means a commercial license issued pursuant to K.S.A. 8-234b, and amendments thereto;
- (d) "commercial driver license system" means the information system established pursuant to the commercial motor vehicle safety act of 1986 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;
- (e) "instruction permit" means a permit issued pursuant to K.S.A. 8-294, and amendments thereto;

(f) “commercial motor vehicle” means a motor vehicle designed or used to transport passengers or property, if:

(1) The vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating, as determined by rules and regulations adopted by the secretary, but shall not be more restrictive than the federal regulation;

(2) the vehicle is designed to transport 16 or more passengers, including the driver; or

(3) the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. § 172, subpart F;

(g) “controlled substance” means any substance so classified under K.S.A. 2013 Supp. 21-5701, and amendments thereto;

(h) “conviction” means an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law and in a court of original jurisdiction or an administrative proceeding, an unvacated forfeiture of bail or collateral deposited to secure the person’s appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated;

(i) “disqualification” means any of the following:

(1) The suspension, revocation, or cancellation of a commercial driver’s license by the state or jurisdiction of issuance;

(2) any withdrawal of a person’s privileges to drive a commercial motor vehicle by a state or other jurisdiction as the result of a violation of state or local law relating to motor vehicle traffic control, other than parking, vehicle weight or vehicle defect violations;

(3) a determination by the federal motor carrier safety administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. § 391;

(j) “drive” means to drive, operate or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of K.S.A. 8-2,137, 8-2,138, 8-2,142, 8-2,144 and 8-2,145, and amendments thereto, “drive” includes operation or physical control of a motor vehicle anywhere in the state;

(k) “driver” means any person who drives, operates or is in physical control of a commercial motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a commercial driver’s license;

(l) “driver’s license” means any driver’s license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

(1) Any temporary license or instruction;

(2) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license; or

(3) any nonresident's operating privilege;

(m) "employer" means any person, including the United States, a state or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle;

(n) "endorsement" means an authorization to an individual's commercial driver's license required to permit the individual to operate certain types of commercial motor vehicles;

(o) "felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year;

(p) "gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle. The gross vehicle weight rating of a combination (articulated) vehicle (commonly referred to as the "gross combination weight rating") is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of the towed unit or units;

(q) "hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. § 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73;

(r) "motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheel chairs;

(s) "out-of-service order" means a temporary prohibition against driving a commercial motor vehicle, which is imposed when a driver has any measured or detected alcohol concentration while on duty, or operating, or in physical control of a commercial motor vehicle or a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle or a motor carrier operation, is out-of-service pursuant to 49 C.F.R. Part 386.72, 392.5, 395.13, 396.9 or such compatible laws, or the North American out-of-service criteria;

(t) "residence" means the place which is adopted by a person as the person's place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's residence;

(u) "secretary" means the secretary of the Kansas department of revenue;

(v) "serious traffic violation" means:

(1) Excessive speeding, is defined as 15 miles per hour or more over the posted speed limit;

(2) reckless driving, as defined under K.S.A. 8-1566, and amendments thereto;

(3) a violation of any state or local law relating to motor vehicle traffic

control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(4) changing lanes of traffic illegally or erratically, as defined under K.S.A. 8-1548, and amendments thereto;

(5) following another vehicle too closely, as defined under K.S.A. 8-1523, and amendments thereto;

(6) a violation of subsection (a) of K.S.A. 8-2,132, and amendments thereto; or

(7) any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, which the secretary determines by rule and regulation to be serious;

(w) “state” means a state of the United States and the District of Columbia;

(x) “state of domicile” means that state where a person has such person’s true, fixed and permanent home and principal residence and to which such person has the intention of returning whenever such person is absent;

(y) ~~“tank vehicle” means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks, as defined in 49 C.F.R. § 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons a tank vehicle, as defined in 49 C.F.R. § 383.5, as in effect on the date of this act or such later version as adopted by rules and regulations of the secretary pursuant to K.S.A. 8-2,140, and amendments thereto;~~

(z) “United States” means the 50 states and the District of Columbia;

(aa) “division” means the division of vehicles of the Kansas department of revenue;

(bb) “director” means the director of the division of vehicles of the Kansas department of revenue;

(cc) “foreign country” means any jurisdiction other than the United States;

(dd) “nonresident commercial driver’s license” means a license issued pursuant to K.S.A. 8-2,148, and amendments thereto;

(ee) “fatality” means the death of a person as a result of a motor vehicle accident;

(ff) “noncommercial motor vehicle” means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle in subsection (f);

(gg) “school bus” means a commercial motor vehicle used to transport preprimary, primary or secondary school students from home to school, from school to home or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

Sec. 2. K.S.A. 2013 Supp. 8-2,128 is hereby repealed.

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

Approved April 16, 2014.

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## CHAPTER 60

### HOUSE BILL No. 2420

AN ACT concerning school crossing guards; amending K.S.A. 2013 Supp. 8-15,104 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 8-15,104 is hereby amended to read as follows: 8-15,104. (a) The governing body of any school district, nonpublic school, city, *township located in a county designated as an urban area pursuant to K.S.A. 19-2654, and amendments thereto*, or county is hereby authorized to appoint and equip volunteers and designated employees of such school district, nonpublic school, city, *township* or county, and may provide training to such volunteers *and employees* as school crossing guards, as defined in K.S.A. 2013 Supp. 8-1492, and amendments thereto, *and is further hereby authorized to retain any other individual, firm, partnership, corporation, public agency or other association of persons, by contract for services* to direct traffic at school crossings, streets and highways in the vicinity of schools and bus stops, by means of lawful orders, signs or semaphores. Such persons shall wear a distinctive garb or insignia indicating such appointment.

(b) School crossing guards shall not have the power to issue citations or the power to arrest provided to law enforcement officers.

Sec. 2. K.S.A. 2013 Supp. 8-15,104 is hereby repealed.

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

Approved April 16, 2014.

Published in the *Kansas Register* April 24, 2014.

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## CHAPTER 61

## HOUSE BILL No. 2419

AN ACT concerning fire districts in Johnson county and city annexation; amending K.S.A. 19-3623f and repealing the existing section; also repealing K.S.A. 13-796, 13-797, 13-798, 13-799, 13-7,100 and 13-7,101.

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

Section 1. K.S.A. 19-3623f is hereby amended to read as follows: 19-3623f. (a) If any land included in a fire district created under the provisions of K.S.A. 19-3613, and amendments thereto, is thereafter annexed by any city, ~~other than the city of Overland Park,~~ such land shall continue to be within and a part of the fire district unless approved for detachment and exclusion from the boundaries of such district by the board of county commissioners. ~~Within 60 days following annexation of land located within a fire district the governing bodies of the city and fire district shall negotiate an agreement providing for the transfer of such land to the city. Such negotiations also shall may include the transfer of other property of the fire district and the payment of compensation therefor. Any such agreement shall be submitted to and approved by the board of county commissioners, and thereupon such land shall be detached from the fire district and any other property to be transferred to the city under the agreement shall be transferred.~~

~~(b) If the city and fire district are unable to reach an agreement pursuant to subsection (a), the governing body of the city or fire district shall present a petition to the board requesting the board to detach such land and provide for the transfer of any property. Upon receipt of such petition, the board shall call and hold a hearing thereon. Notice of such hearing shall be published in a newspaper of general circulation in the county once each week for two consecutive weeks. The final notice shall be published not less than one week and not more than two weeks before the date fixed for the hearing. A copy of the notice also shall be mailed by certified mail to the residents and governing bodies of the fire district and city affected by the detachment. The cost of providing notice required by this subsection shall be paid by the city.~~

~~(c) On the day set for the hearing, the board shall hear testimony as to the advisability of the detachment of land from the fire district and the transfer of any property. The action of the board shall be quasi-judicial in nature. The board shall consider the impact of approving or disapproving the detachment of such land and transfer of any property. The board shall make specific written findings of fact and conclusions determining whether such detachment or the detachment of a lesser amount of such area and the transfer of property causes manifest injury to the fire district, or to the city if the detachment and transfer is disapproved. The findings and conclusions shall be based upon the preponderance of evidence presented to the board. In determining whether manifest injury~~

would result from the detachment and transfer, the board's considerations shall include, but not be limited to, the:

~~(1) Response time of the city and the fire district to the area proposed to be detached;~~

~~(2) impact on the fire district from the decrease in its tax base if detachment is approved;~~

~~(3) impact on the city's provision of fire service if the detachment is disapproved;~~

~~(4) impact on the residents of the area;~~

~~(5) loss of sales tax revenue to the city if detachment is disapproved; and~~

~~(6) impact on the remainder of the fire district if the detachment is approved.~~

~~(d) The board shall make its decision within 120 days after the date of the conclusion of the hearing. The board may continue the hearing beyond the time specified without further publication of notice. If a majority of the board concludes the proposed detachment or any part thereof should be granted and the transfer of any property, the board shall so find, and thereupon such land shall be detached from the fire district and any other property shall be transferred to the city. If aggrieved by the decision of the board, the fire district or the city may appeal such decision to the district court of the county.~~

~~(e)(b) When the land annexed to such city is detached and excluded from such district the governing body of the *fire* district shall redefine the new boundaries of the *fire* district to exclude the land so detached. All general obligation bonds issued for the acquisition or construction of fire stations or buildings, the acquisition of sites therefor and the purchase of fire fighting equipment by a fire district which are issued prior to the detachment of such land shall continue as an obligation of the property subject to taxation for the payment thereof at the time such bonds were issued.~~

Sec. 2. K.S.A. 13-796, 13-797, 13-798, 13-799, 13-7,100, 13-7,101 and 19-3623f are hereby repealed.

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

Approved April 16, 2014.

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## CHAPTER 62

## HOUSE BILL No. 2744

AN ACT concerning insurance; providing coverage for autism spectrum disorder; requiring licensure of persons providing applied behavior analysis; amending K.S.A. 2013 Supp. 40-2,103 and 40-19c09 and repealing the existing sections.

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

New Section 1. (a) (1) (A) Any large group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services and which is delivered, issued for delivery, amended or renewed on or after January 1, 2015, shall provide coverage for the diagnosis and treatment of autism spectrum disorder in any covered individual whose age is less than 12 years.

(B) Any grandfathered individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services and which is delivered, issued for delivery, amended or renewed on or after January 1, 2016, shall provide coverage for the diagnosis and treatment of autism spectrum disorder in any covered individual whose age is less than 12 years.

(2) Such coverage shall be provided in a manner determined in consultation with the autism services provider and the patient. Services provided by autism services providers under this section shall include applied behavior analysis when required by a licensed physician, licensed psychologist or licensed specialist clinical social worker but otherwise shall be limited to the care, services and related equipment prescribed or ordered by a licensed physician, licensed psychologist or licensed specialist clinical social worker.

(3) Coverage provided under this section for applied behavior analysis shall be subject to a limitation of:

(A) 1,300 hours per calendar year for four years beginning on the later of the date of diagnosis or January 1, 2015, for any covered individual diagnosed with autism spectrum disorder between birth and five years of age; and

(B) except as provided in subparagraph (A), 520 hours per calendar year for any covered individual less than 12 years of age.

Upon prior approval by the health benefit plan, such maximum benefit limit may be exceeded if the provision of applied behavior analysis services beyond the maximum limit is medically necessary for such individual. Any payment made by an insurer on behalf of a covered individual for any care, treatment, intervention, service or item, the provision of which was for the treatment of a health condition unrelated to such covered

individual's autism spectrum disorder, shall not be applied toward any maximum benefit established under this paragraph. Except for the coverage for applied behavior analysis, no coverage required under this section shall be subject to the age and hour limitations described in this paragraph.

(4) On or after January 1, 2015, through June 30, 2016, reimbursement shall be allowed only for services provided by a provider licensed, trained and qualified to provide such services or by an autism specialist or an intensive individual service provider as such terms are defined by the Kansas department for aging and disability services Kansas autism waiver. On or after July 1, 2016, reimbursement shall be allowed only for services provided by an autism service provider licensed or exempt from licensure under the applied behavior analysis licensure act, except that reimbursement shall be allowed for services provided by an autism specialist, an intensive individual service provider or any other individual qualified to provide services under the home and community based services autism waiver administered by the Kansas department for aging and disability services.

(5) Any insurer or other entity which administers claims for services provided for the treatment of autism spectrum disorder under this section shall have the right and obligation to deny any claim for services based upon medical necessity or a determination that the covered individual has reached the maximum medical improvement for the covered individual's autism spectrum disorder.

(6) Except for inpatient services, if an insured is receiving treatment for autism spectrum disorder, such insurer shall have the right to review the treatment plan not more than once in a period of six consecutive months, unless the insurer and the insured's treating physician or psychologist agree that a more frequent review is necessary. Any such agreement regarding the right to review a treatment plan more frequently shall apply only to a particular insured being treated for autism spectrum disorder and shall not apply to all individuals being treated for autism spectrum disorder by a physician or psychologist. The cost of obtaining any review or treatment plan shall be borne by the insurer.

(7) No insurer can terminate coverage, or refuse to deliver, execute, issue, amend, adjust or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for autism spectrum disorder.

(b) For the purposes of this section:

(1) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

(2) “Autism spectrum disorder” means a neurobiological disorder, an illness of the nervous system, which includes:

(A) “Autistic disorder,” which is:

(i) Six or more items from (a), (b) and (c) of this subparagraph, with at least two items from (a) of this subparagraph, and one item each from (b) and (c) of this subparagraph:

(a) Qualitative impairment in social interaction, as manifested by at least two of the following:

(1) Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures and gestures to regulate social interaction;

(2) failure to develop peer relationships appropriate to developmental level;

(3) a lack of spontaneous seeking to share enjoyment, interests or achievements with other people; or

(4) lack of social or emotional reciprocity;

(b) qualitative impairments in communication as manifested by at least one of the following:

(1) Delay in, or total lack of, the development of spoken language;

(2) in individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;

(3) stereotyped and repetitive use of language or idiosyncratic language; or

(4) lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level;

(c) restricted repetitive and stereotyped patterns of behavior, interests and activities, as manifested by at least one of the following:

(1) Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

(2) apparently inflexible adherence to specific, nonfunctional routines or rituals;

(3) stereotyped and repetitive motor mannerisms; or

(4) persistent preoccupation with parts of objects;

(ii) delays or abnormal functioning in at least one of the following areas, with onset prior to age three years, including social interaction, language as used in social communication or symbolic or imaginative play; and

(iii) the disturbance is not better accounted for by Rett’s disorder or childhood disintegrative disorder;

(B) “Asperger’s disorder,” which is:

(i) a qualitative impairment in social interaction, as manifested by at least two of the following:

(a) Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures and gestures to regulate social interaction;

(b) failure to develop peer relationships appropriate to developmental level;

(c) lack of spontaneous seeking to share enjoyment, interests or achievements with other people; or

(d) lack of social or emotional reciprocity;

(ii) restricted repetitive and stereotyped patterns of behavior, interests and activities, as manifested by at least one of the following:

(a) Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

(b) apparently inflexible adherence to specific, nonfunctional routines or rituals;

(c) stereotyped and repetitive motor mannerisms; or

(d) persistent preoccupation with parts of objects;

(iii) the disturbance causes clinically significant impairment in social, occupational or other important areas of functioning;

(iv) there is no clinically significant general delay in language;

(v) there is no clinically significant delay in cognitive development or in the development of age-appropriate self-help skills, adaptive behavior (other than in social interaction), and curiosity about the environment in childhood; and

(vi) criteria are not met for another specific pervasive developmental disorder or schizophrenia;

(C) “pervasive developmental disorder not otherwise specified,” is a severe and pervasive impairment in the development of reciprocal social interaction associated with impairment in either verbal or nonverbal communication skills or with the presence of stereotyped behavior, interests and activities, but the criteria are not met for a specific pervasive developmental disorder, schizophrenia, schizotypal personality disorder, or avoidant personality disorder;

(D) “Rett’s disorder,” includes:

(i) All of the following:

(a) Apparently normal prenatal and perinatal development;

(b) apparently normal psychomotor development through the first five months after birth; and

(c) normal head circumference at birth;

(ii) onset of all of the following after the period of normal development:

(a) Deceleration of head growth between ages five and 48 months;

(b) loss of previously acquired purposeful hand skills between ages five and 30 months with the subsequent development of stereotyped hand movements;

(c) loss of social engagement early in the course of development;

(d) appearance of poorly coordinated gait or trunk movements; and

(e) severely impaired expressive and receptive language development with severe psychomotor retardation;

(E) “childhood disintegrative disorder,” is:

(i) Apparently normal development for at least the first two years after birth as manifested by the presence of age-appropriate verbal and nonverbal communication, social relationships, play and adaptive behavior;

(ii) clinically significant loss of previously acquired skills in at least two of the following areas: Expressive or receptive language, social skills or adaptive behavior, bowel or bladder control or play and motor skills;

(iii) abnormalities of functioning in at least two of the following areas: Qualitative impairment in social interaction; qualitative impairments in communication; restricted, repetitive and stereotyped patterns of behavior, interests and activities, including motor stereotypies and mannerisms; and

(iv) the disturbance is not better accounted for by another specific pervasive developmental disorder or by schizophrenia.

(3) “Diagnosis of autism spectrum disorder” means any medically necessary assessment, evaluation or test performed by a licensed physician, licensed psychologist or licensed specialist clinical social worker to determine whether an individual has autism spectrum disorder.

(4) “Grandfathered health benefit plan” shall have the meaning ascribed to such term in 42 U.S.C. § 18011. The term “grandfathered health benefit plan” includes both small employer group health benefit plans that are grandfathered and individual health benefit plans that are grandfathered.

(5) “Health benefit plan” shall have the meaning ascribed to such term in K.S.A. 40-4602, and amendments thereto.

(6) “Large employer” means, in connection with a group health benefit plan with respect to a calendar year and a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.

(7) “Small employer” means, in connection with a group health benefit plan with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than 50 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.

(c) If an individual has been diagnosed as having autism spectrum disorder meeting the diagnostic criteria described in the edition of the diagnostic and statistical manual of mental disorders available at the time of diagnosis, then that individual shall not be required to undergo any additional or repeated evaluation based upon the adoption of a subsequent edition of the diagnostic and statistical manual of mental disorders adopted by rules and regulations of the behavioral sciences regulatory board in order to remain eligible for coverage under this section.

(d) Except as otherwise provided in subsection (a), no individual or

group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services and which provides coverage with respect to autism spectrum disorder shall:

(1) Impose on the coverage required by this section any dollar limits, deductibles or coinsurance provisions that are less favorable to an insured than the dollar limits, deductibles or coinsurance provisions that apply to physical illness generally under the accident and sickness insurance policy; or

(2) impose on the coverage required by this section any limit upon the number of visits that a covered individual may make for treatment of autism spectrum disorder.

(e) The provisions of this section shall not apply to any policy or certificate which provides coverage for any specified disease, specified accident or accident-only coverage, credit, dental, disability income, hospital indemnity, long-term care insurance as defined by K.S.A. 40-2227, and amendments thereto, vision care or any other limited supplemental benefit nor to any medicare supplement policy of insurance as defined by the commissioner of insurance by rules and regulations, any coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, automobile medical-payment insurance or any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

(f) This section shall not be construed as limiting benefits that are otherwise available to an individual under any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services.

(g) The provisions of K.S.A. 40-2249a, and amendments thereto, shall not apply to the provisions of this section.

(h) The commissioner of the department of insurance shall grant a small employer with a group health benefit plan a waiver from the provisions of this section, if the small employer demonstrates to the commissioner by actual claims experience over any consecutive twelve-month period that compliance with this section has increased the cost of the health insurance policy by an amount of two and a half percent or greater over the period of a calendar year in premium costs to the small employer.

(i) Nothing contained in this section shall require coverage for or payment of full or partial day care or habilitation services, community support services, services at intermediate care facilities, school-based rehabilitative services or overnight, boarding and extended stay services at facilities for autism patients. Only services actually rendered on an hourly basis or fractional portion thereof by certified applied behavior analysis

(ABA) providers as herein defined shall be required to be covered under this section. Nothing in this section shall require coverage or payment hereunder for services that are otherwise provided, authorized or required to be provided by public or private schools receiving any state or federal funding for such services.

New Sec. 2. Sections 2 through 6, and amendments thereto, shall be known and may be cited as the applied behavior analysis licensure act.

New Sec. 3. For the purposes of this act:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior;

(b) “autism service provider” means any person:

(1) That provides diagnostic or treatment services for autism spectrum disorders who is licensed or certified by the state of Kansas; or

(2) who is licensed by the behavioral sciences regulatory board as a licensed behavior analyst or a licensed assistant behavior analyst;

(c) “autism spectrum disorder” has the meaning ascribed to such term by section I, and amendments thereto.

(d) “board” means the behavioral sciences regulatory board created under K.S.A. 74-7501, and amendments thereto;

(e) “certifying entity” means the national accredited behavior analyst certification board or other equivalent nationally accredited nongovernmental agency approved by the behavioral sciences regulatory board which certifies individuals who have completed academic, examination, training and supervision requirements in applied behavior analysis;

(f) “controlled substance” means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto;

(g) “diagnosis of autism spectrum disorders” means any medically necessary assessments, evaluations or tests in order to diagnose whether an individual has an autism spectrum disorder;

(h) “licensed assistant behavior analyst” or “LaBA” means an individual who is certified by the certifying entity as a certified assistant behavior analyst and meets the licensing criteria as established by the board by rules and regulations;

(i) “licensed behavior analyst” or “LBA” means an individual who is certified by the certifying entity as a certified behavior analyst and meets the licensing criteria as established by the board by rules and regulations;

(j) “line therapist” means an individual who:

(1) Provides supervision of an individual diagnosed with autism spectrum disorder and other neurodevelopmental disorders pursuant to the prescribed treatment plan; and

(2) implements specific behavioral interventions as outlined in the prescribed treatment plan under the direct supervision of a licensed behavior analyst; and

(k) “treatment for autism spectrum disorder” means care prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist, including equipment medically necessary for such care, pursuant to the powers granted under such licensed physician’s or licensed psychologist’s license.

New Sec. 4. (a) On or after July 1, 2016, no person shall practice applied behavior analysis in this state unless they are:

- (1) Licensed behavior analysts;
- (2) licensed assistant behavior analysts working under the supervision of a licensed behavior analyst;
- (3) an individual who has a bachelor’s or graduate degree and completed course work for licensure as a behavior analyst and is obtaining supervised field experience under a licensed behavior analyst pursuant to required supervised work experience for licensure at the behavior analyst or assistant behavior analyst level; or
- (4) licensed psychologists practicing within the rules and standards of practice for psychologists in the state of Kansas and whose practice is commensurate with their level of training and experience.

(b) The licensing requirements of subsection (a) shall not apply to any person:

- (1) Licensed by the board who practices any component of applied behavior analysis within the scope of such person’s license and scope of practice as required by law;
  - (2) who provides services under the individuals with disabilities education act (IDEA), 20 U.S.C. § 1400 et seq.;
  - (3) who provides services under § 504 of the federal rehabilitation act of 1973, 20 U.S.C. § 794;
  - (4) is enrolled in a course of study at a recognized educational institution through which such person provides applied behavior analysis as part of supervised clinical experience;
  - (5) who is an autism specialist, an intensive individual service provider or any other individual qualified to provide services under the home and community based services autism waiver administered by the Kansas department for aging and disability services;
  - (6) who is an occupational therapist licensed by the state board of healing arts, acting within the scope of such person’s license and scope of practice as required by law; or
  - (7) who is a speech-language pathologist or audiologist licensed by the Kansas department for aging and disability services, acting within the scope of such person’s license and scope of practice as required by law.
- (c) The board shall not issue a license under this act until the license

applicant provides proof that such applicant has met the certification requirements of a certifying entity.

New Sec. 5. (a) The board may deny, suspend, revoke or refuse renewal of any license issued under this act if the board finds that the applicant or license holder has:

(1) Used any controlled substance or alcoholic beverage to an extent that such use impairs such person's ability to perform the work of any profession licensed or regulated by this act.

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any professional licensed or regulated under this act, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not a sentence is imposed.

(3) Used any fraud, deception or misrepresentation in securing any license issued under this act.

(4) Obtained or attempted to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation.

(5) Committed any act of incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed by the board.

(6) Committed any violation of or assisted or enabled any person to violate any provision of this act or any rule and regulation promulgated thereunder.

(7) Impersonated any person holding a certificate of registration or authority, permit or license or allowed any other person to use such person's certificate of registration or authority, permit, license or diploma from any school.

(8) Been disciplined in any action by another state, territory, federal agency or country which would constitute grounds for a license issued under this act being suspended or revoked.

(9) Been finally adjudged insane or incapacitated by a court of competent jurisdiction.

(10) Assisted or enabled any person to practice or offer to practice any profession licensed or regulated by the board when such person is not eligible to practice such profession as required by law.

(11) Issued any certificate of registration or authority, permit or license based upon a material mistake of fact.

(12) Failed to display a valid certificate or license if so required by this act or any rules and regulations promulgated thereunder.

(13) Violated any professional trust or confidence.

(14) Used any advertisement or solicitation which is false, misleading

or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

(15) Been found guilty of unprofessional conduct or professional incompetence as defined by the board by rules and regulations.

(b) Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

New Sec. 6. The board shall promulgate rules and regulations necessary to implement and administer this act. Such rules and regulations shall include, but not be limited to:

(a) The form and content of license applications required and the procedures for filing an application for an initial or renewal license in this state;

(b) the establishment of fees for licenses, and the renewal thereof, to cover all or any part of the cost of administering the provisions of this act;

(c) the educational and training requirements for licensed behavior analysts and licensed assistant behavior analysts;

(d) the roles, responsibilities and duties of licensed behavior analysts and licensed assistant behavior analysts;

(e) the characteristics of supervision and supervised clinical practicum experience for the licensed behavior analysts and the licensed assistant behavior analysts;

(f) the supervision of licensed behavior analysts and licensed assistant behavior analysts;

(g) the requirements for continuing education for licensed behavior analysts and licensed assistant behavior analysts;

(h) standards of professional competency;

(i) standards of professional conduct; and

(j) such other rules and regulations as the board deems necessary to carry out the provisions of this act.

Sec. 7. K.S.A. 2013 Supp. 40-2,103 is hereby amended to read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170, inclusive, 40-2250, K.S.A. 2013 Supp. 40-2,105a, 40-2,105b, 40-2,184 and 40-2,190 and section 1, and amendments thereto, shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within or outside of this state or used within this state by or for an individual who resides or is employed in this state.

Sec. 8. K.S.A. 2013 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. (a) Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of

chapter 17 of the Kansas Statutes Annotated, and amendments thereto, applicable to nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,125, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2013 Supp. 40-2,105a, 40-2,105b, 40-2,184 and 40-2,190 and section 1, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

Sec. 9. K.S.A. 2013 Supp. 40-2,103 and 40-19c09 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2014.

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## CHAPTER 63

Substitute for HOUSE BILL No. 2436

AN ACT concerning the boards of cosmetology and barbering; relating to dual-licensed facilities; amending K.S.A. 65-1907 and 74-1806 and repealing the existing sections.

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

Section 1. K.S.A. 65-1907 is hereby amended to read as follows: 65-1907. (a) *Except as provided in subsection (b)*, the chairperson, with the approval of the board, shall employ inspectors to inspect schools, salons and clinics and the inspectors shall perform all of the inspection duties of the board, as required by this act, rules and regulations of the board and sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto. The board shall provide training to the inspectors to enable the inspectors to provide

current information to school, salon and clinic personnel regarding requirements of applicable statutes and *rules and regulations*. It shall be the duty of the board to determine the number of hours and practice work required of students in each subject of cosmetology, nail technology, esthetics and electrology taught in a licensed school.

*(b) The chairperson of the board of cosmetology, with the approval of the board, may enter into an agreement with the chairperson of the board of barbering as to which board's inspectors shall inspect a dual-licensed salon and barber shop. Such designated inspectors shall perform all of the inspection duties of both boards, as required by the applicable statutes and rules and regulations of both boards and the sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto. Such designated inspectors shall be trained by both boards as required by the applicable statutes and rules and regulations of both boards.*

Sec. 2. K.S.A. 74-1806 is hereby amended to read as follows: 74-1806. *(a) Except as provided in subsection (b), the board shall meet immediately after appointment and determine the policies of the board and may conduct any business that may be before such board. Thereafter, the board shall meet as required by law, at times designated by the board and on the call of the administrative officer. The board shall keep a record of all its proceedings and a register of all applicants for licensure and all licensees. Members of the board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The board shall adopt rules and regulations for the purpose of carrying out the provisions of this act. The administrative officer, with the approval of the board, shall have authority to employ inspectors and office personnel as may be deemed necessary to administer this act, and shall provide and maintain offices. The inspectors so appointed shall perform all of the inspection duties of the board. All employees of the board shall be within the classified service of the Kansas civil service act, with the exception of the administrative officer, who shall be in the unclassified service.*

*(b) The chairperson of the board of barbering, with the approval of the board, may enter into an agreement with the chairperson of the board of cosmetology as to which board's inspectors shall inspect a dual-licensed salon and barber shop. Such designated inspectors shall perform all of the inspection duties of both boards, as required by the applicable statutes and rules and regulations of both boards and the sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto. Such designated inspectors shall be trained by both boards as required by the applicable statutes and rules and regulations of both boards.*

Sec. 3. K.S.A. 65-1907 and 74-1806 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2014.

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## CHAPTER 64

### HOUSE BILL No. 2636\*

AN ACT concerning the secretary of health and environment relating to air quality standards.

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

Section 1. (a) For all coal-fired and natural gas electric generating units that are affected units pursuant to 42 U.S.C. § 7411, as in effect on the effective date of this act, that have been constructed or have received a prevention of significant deterioration permit by July 1, 2014, the secretary of health and environment may establish separate standards of performance for carbon dioxide emissions based upon: (1) The best system of emission reduction that has been adequately demonstrated while considering the cost of achieving such reduction;

(2) reductions in emissions of carbon dioxide that can reasonably be achieved through measures taken at each electric generating unit; and

(3) efficiency and other measures that can be undertaken at each electric generating unit to reduce carbon dioxide emissions without any requirements for fuel switching, co-firing with other fuels or limiting the utilization of the unit.

(b) In establishing any standard of performance for any existing electric generating unit pursuant to this section, the secretary may consider alternative standards and metrics or may provide alternative compliance schedules than those provided by federal rules or regulations by evaluating: (1) Unreasonable costs of achieving an emission limitation due to plant age, location or the design of an electric generating unit;

(2) any unusual physical or compliance schedule difficulties or impossibility of implementing emission reduction measures;

(3) the cost of applying the performance standard to an electric generating unit;

(4) the remaining useful life of an electric generating unit;

(5) any economic or electric transmission and distribution impacts resulting from closing the electric generating unit if compliance with the performance standard is not possible; and

(6) the potential for a standard of performance relating to unit efficiency, including any requirements for a new source review or the appli-

cation of a best available control technology emission limitation for any criteria pollutant as a condition of receiving a permit or authorization for the project.

(c) The secretary may implement such standards through flexible regulatory mechanisms, including the averaging of emissions, emissions trading or other alternative implementation measures that the secretary determines to be in the interest of Kansas. The secretary may enter into voluntary agreements with utilities that operate fossil-fuel based electric generating units within Kansas to implement these carbon dioxide emission standards. Such agreements may aggregate the carbon dioxide emissions levels from electric resources in this state, including coal, petroleum, natural gas or renewable energy resources as defined in K.S.A. 66-1257, and amendments thereto, that are owned, operated or utilized by power purchase agreements by utilities for purposes of determining compliance with such carbon dioxide emission standards.

(d) This section shall be part of and supplemental to the Kansas air quality act.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2014.

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## CHAPTER 65

Senate Substitute for HOUSE BILL No. 2197

AN ACT concerning schools; relating to the Kansas state high school activities association; relating to the membership of the board of directors and executive board; amending K.S.A. 72-130 and repealing the existing section.

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

Section 1. K.S.A. 72-130 is hereby amended to read as follows: 72-130. (a) Any association with a majority of the high schools of the state as members and the purpose of which association is the statewide regulation, supervision, promotion and development of any of the activities defined in K.S.A. 72-133, and amendments thereto, and in which any public high school of this state may participate directly or indirectly shall:

(1) On or before September 1 of each year make a full report of its operation for the preceding calendar year to the state board of education. The report shall contain a complete and detailed financial statement under the certificate of a certified public accountant.

(2) File with the state board a copy of all reports and publications issued from time to time by such association.

(3) Be governed by a board of directors which shall exercise the leg-

islative authority of the association and shall establish policy for the association.

(4) Submit to the state board of education, for its approval or disapproval prior to adoption, any amendments, additions, alterations or modifications of its articles of incorporation or bylaws. If any articles of incorporation, bylaws or any amendment, addition or alteration thereto is disapproved by the state board of education, the same shall not be adopted.

(5) Establish a system for the classification of member high schools according to student attendance.

(6) Be subject to the provisions of the Kansas open meetings law.

(7) Be subject to the provisions of the open records law.

(b) (1) The board of directors shall consist of not less than 60 members: *as follows*:

(A) At least eight directors shall be members of boards of education, elected by local boards of education. At least two of such directors shall be elected from each congressional district of the state;

(B) at least two directors shall be representatives of the state board of education, appointed by the state board;

(C) (i) directors who are representatives of the senior high schools which are affiliated with a league shall be elected by the league;

(ii) the senior high schools which are not affiliated with a league shall be represented by at least one director;

(D) at least four directors shall be representatives of the middle/junior high schools, elected by the middle/junior high schools;

(E) at least one director shall be representative of and selected by athletic administrators;

(F) at least one director shall be representative of and selected by coaches;

(G) at least one director shall be representative of and selected by speech communications educators;

(H) at least one director shall be representative of and selected by music educators; *and*

(I) at least one director shall be representative of and selected by scholars' bowl coaches. ~~Upon selection of the foregoing directors, the state board of education shall be provided with a list of such directors. In order to attain, when necessary, and insofar as possible, representation of ethnic minority groups and both genders on the board of directors, the state board shall appoint not more than four additional directors from the public at large.~~

(2) *The directors appointed by the state board of education from the public at-large prior to July 1, 2014, whose terms are set to expire after July 1, 2014, may continue to serve on the board of directors until such director's term expires. Upon the expiration of the term of any such director, the governor shall appoint a successor member of the board of*

*directors. In the event of a vacancy or the expiration of the term of any director appointed by the governor, the governor shall appoint a successor member of the board of directors. Any person appointed by the governor shall not be employed by any school affiliated with a league in the Kansas state high school activities association, nor shall such person be a member of the state board of education. The governor shall be provided a list of those directors appointed pursuant to subsection (b)(1). The governor shall make appointments pursuant to this subsection in order to attain, when necessary, and insofar as possible, representation of ethnic minority groups and both genders on the board of directors and to ensure that a resident from each congressional district is appointed to the board of directors.*

(3) All directors are limited to six consecutive years of service.

(c) (1) An executive board which shall be responsible for the administration, enforcement and interpretation of policy established by the board of directors shall be elected by the board of directors from its membership, provided that a director shall serve at least one year as a member of the board of directors prior to being elected to the executive board.

(2) At least two members of the board of directors elected to the executive board shall be directors appointed by the governor under subsection (b)(2), provided such directors are eligible for election to the executive board under this subsection. Members of the executive board elected pursuant to this paragraph shall only be eligible to serve on the executive board during the second, fourth and sixth years of such director's term.

(3) Insofar as possible, membership on the executive board shall be representative of ethnic minority groups, both genders, and all geographical areas of the state.

(d) An appeal board which shall be responsible for conducting hearings provided for in K.S.A. 72-134, and amendments thereto, shall be elected as provided in this subsection. The appeal board shall consist of eight members. The membership of the appeal board shall include four members who are board of education members, elected by the boards of education of the member schools of the association; and four members who are school administrators, elected by the member schools of the association. No member of the board of directors shall be eligible for election to membership on the appeal board. All members of the appeal board are limited to six consecutive years of service.

(e) The executive board is authorized to employ an executive director and such other personnel as may be necessary to the exercise of the powers and the performance of the functions and duties of the board of directors, the executive board, and the appeal board. The executive director and all other personnel, except custodial, clerical or maintenance personnel, employed by the executive board pursuant to this subsection,

shall file written statements of substantial interests, as provided by K.S.A. 46-248 through 46-252, and amendments thereto.

Sec. 2. K.S.A. 72-130 is hereby repealed.

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

Approved April 16, 2014.

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## CHAPTER 66

Senate Substitute for HOUSE BILL No. 2482\*

AN ACT creating the energy efficiency investment act.

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

Section 1. (a) As used in this section:

- (1) “Commission” means the state corporation commission;
- (2) “demand response” means measures that decrease peak demand or shift demand to off-peak periods of time;
- (3) “demand-side program” means any program conducted by: (A) An electric utility to reduce the net consumption of electricity by a retail electric customer; or (B) a natural gas utility to reduce the net consumption of natural gas by a retail gas customer.

“Demand-side program” may include, but shall not be limited to: (A) Energy efficiency measures, not to include any measures to incent fuel switching for residential heating systems; (B) load management; (C) demand response; and (D) interruptible or curtailable load;

(4) “energy efficiency” means measures that reduce the amount of energy required to achieve a given end use; and

(5) “public utility” means any public electric or gas utility, as defined in K.S.A. 66-101, and amendments thereto, but does not include a municipally-owned electric or gas utility or an electric or gas cooperative that is exempt from commission jurisdiction pursuant to K.S.A. 66-104d, and amendments thereto.

(b) It is the goal of the state to promote the implementation of cost-effective demand-side programs in Kansas. It shall be the policy of the state to value demand-side program investments equal to traditional investments in supply and delivery infrastructure as much as is practicable, but public utilities shall not be required to offer, implement or continue demand-side programs.

(c) (1) (A) The commission shall permit public utilities to implement commission-approved demand-side programs and cost recovery mechanisms submitted pursuant to this section. The commission shall issue an order on any demand-side program plan and cost-recovery mechanisms

within 180 days after submission to the commission. The commission may extend the approval period to 240 days for good cause. Consistent with K.S.A. 66-117(c), and amendments thereto, if the commission fails to issue a final order on such program plan and cost-recovery mechanism within 180 days, or 240 days if the approval period was extended by the commission for good cause, such program plan and cost-recovery mechanism shall be deemed approved by the commission and shall take effect on the proposed effective date contained in such plan.

(B) The public utility and the commission shall both have the independent authority to accept or reject any proposed establishment, continuation or modification of a demand-side program, portfolio of programs or associated cost-recovery or incentive mechanisms, but no such establishment, continuation or modification of such programs or mechanisms shall take effect without the approval of both the utility and the commission. If the public utility rejects modifications to a demand-side program or portfolio of programs approved by the commission, including modifications to the cost-recovery mechanism, the public utility shall not be required to implement the program or mechanism.

(C) Upon final ruling of the commission order, the public utility has the right to reconsider and may withdraw its plan during the reconsideration period, which shall not exceed 30 calendar days from the date the final order was issued. Pursuant to K.S.A. 77-613, and amendments thereto, the time period for filing a petition for judicial review shall not begin until the completion of any such reconsideration period.

(D) In making its decision whether or not to approve the proposed program, the commission shall determine the appropriate test for evaluating the cost-effectiveness of the demand-side program. Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public interest and is supported by a reasonable budget in the context of the overall budget.

(2) The commission shall allow recovery of the reasonable and prudent costs associated with delivering commission-approved demand-side programs, so long as the program: (A) Results in energy or demand savings; and (B) is beneficial to customers in the customer class for which the programs were implemented, whether or not the program is utilized by all customers in such class. The fact that a commission-approved program proves not to be cost-effective is not by itself sufficient grounds for disallowing cost recovery. Programs determined to be non-cost-effective, other than programs targeted to low-income customers or general education campaigns, shall be modified to address deficiencies or terminated following such determination.

(d) (1) To comply with this section, the commission may allow cost recovery mechanisms that further encourage investments in demand-side programs. Such cost recovery mechanisms may include, but shall not be

limited to: (A) Capitalization of investments in and expenditures for demand-side programs; (B) recovery of lost revenue associated with demand-side programs; (C) decoupling; (D) rate design modifications; (E) accelerated depreciation on demand-side investments; and (F) allowing the public utility to retain a portion of the net benefits of a demand-side program for its shareholders.

(2) In determining rates for electricity as part of a demand-side program, the commission shall fairly apportion the costs and benefits of such programs to each customer class.

(e) To achieve the goals of this act, the commission shall:

(1) Provide timely cost recovery for electric public utilities;

(2) ensure that the financial incentives for an electric public utility are aligned with helping such utility's customers use energy more efficiently and in a manner that sustains or enhances such customers' incentives to use energy more efficiently;

(3) provide timely earnings opportunities for public utilities associated with cost-effective, measurable and verifiable demand-side program savings;

(4) provide oversight and approval for utility-specific settlements and tariff provisions; and

(5) provide independent evaluation of demand-side programs, as deemed necessary by the commission.

(f) On or before May 31 of each year, each public utility shall submit an annual report to the commission describing the results of such demand-side programs for the previous calendar year. The report shall include:

(1) Program expenditures, including incentive payments;

(2) peak demand and energy savings impacts and the techniques used to estimate such impacts;

(3) avoided costs and the techniques used to estimate such costs;

(4) the estimated cost-effectiveness of the demand-side programs;

(5) the net economic benefits of the demand-side programs; and

(6) a comparison of the commission authorized program budget to actual costs.

(g) The commission may adopt rules and regulations for the administration of this act.

(h) This section shall be known and may be cited as the Kansas energy efficiency investment act.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 67

## HOUSE BILL No. 2479

AN ACT concerning driving privileges; relating to suspension and restriction for test failure or alcohol or drug-related conviction; ignition interlock device; failure to comply with a traffic citation; restricted driving privileges; amending K.S.A. 2013 Supp. 8-1015 and 8-2110 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 8-2110a.

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

Section 1. K.S.A. 2013 Supp. 8-1015 is hereby amended to read as follows: 8-1015. (a) (1) Except as provided in subsection (a)(2), whenever a person's driving privileges have been suspended for one year as provided in subsection (a) of K.S.A. 8-1014, and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(2) Whenever a person's driving privileges have been suspended for one year as provided in subsection (a)(1) of K.S.A. 8-1014, and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only under the circumstances provided by subsections (a)(1), (2), (3) and (4) of K.S.A. 8-292, and amendments thereto.

(3) Except as provided in subsection (a)(4), whenever a person's driving privileges have been suspended for one year as provided in subsection (b) of K.S.A. 8-1014, and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(4) Whenever a person's driving privileges have been suspended for one year as provided in subsection (b)(2)(A) of K.S.A. 8-1014, and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only under the circumstances provided by subsections (a)(1), (2), (3) and (4) of K.S.A. 8-292, and amendments thereto.

(5) The division shall assess an application fee of \$100 for a person to apply to modify the suspension to restricted ignition interlock status.

(6) The division shall approve the request for such restricted license unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court. If the request is approved, upon receipt of proof of the installation of such device, the division shall issue a copy of the order imposing such restrictions on the person's driving privileges and such order shall be carried by the person at any time the person is operating a motor vehicle on the highways of this state. Except as provided in K.S.A. 8-1017, and amendments thereto, if such person is convicted of a violation of the restrictions, such person's driving privileges shall be suspended for an additional year, in addition to any term of suspension or restriction as provided in subsection (a) or (b) of K.S.A. 8-1014, and amendments thereto.

~~(b) (1) — On and after July 1, 2011, through June 30, 2015:~~

~~(A)~~ Except as provided in subsection ~~(b)(1)(B)~~ (b)(2), when a person has completed the suspension pursuant to subsection (b)(1)(A) of K.S.A. 8-1014, and amendments thereto, the division shall restrict the person's driving privileges for 180 days to driving only a motor vehicle equipped with an ignition interlock device.

~~(B)(2)~~ When a person has completed the suspension pursuant to subsection (b)(1)(A) of K.S.A. 8-1014, and amendments thereto, the division shall restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device if the records maintained by the division indicate that such person has previously: (A) Been convicted of a violation of K.S.A. 8-1599, and amendments thereto; (B) been convicted of a violation of K.S.A. 41-727, and amendments thereto; (C) been convicted of any violations listed in subsection (a) of K.S.A. 8-285, and amendments thereto; (D) been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period; or (E) had such person's driving privileges revoked, suspended, canceled or withdrawn.

~~(2) — On and after July 1, 2015:~~

~~(A)~~ Except as provided in subsection ~~(b)(2)(B)~~, when a person has completed the suspension pursuant to subsection (b)(1)(A) of K.S.A. 8-1014, and amendments thereto, the division shall restrict the person's driving privileges to driving only under the circumstances provided by subsections (a)(1), (2), (3) and (4) of K.S.A. 8-292, and amendments thereto.

~~(B)~~ In lieu of the restrictions set out in subsection (b)(2)(A), the division, upon request of the person whose driving privileges are to be restricted, may restrict the person's driving privileges to driving only a motor vehicle equipped with an ignition interlock device.

(c) Except as provided in subsection (b), when a person has completed the suspension pursuant to subsection (a) or (b) of K.S.A. 8-1014, and amendments thereto, the division shall restrict the person's driving

privileges pursuant to subsection (a) or (b) of K.S.A. 8-1014, and amendments thereto, to driving only a motor vehicle equipped with an ignition interlock device. Upon restricting a person's driving privileges pursuant to this subsection, the division shall issue a copy of the order imposing the restrictions which is required to be carried by the person at any time the person is operating a motor vehicle on the highways of this state.

(d) Whenever an ignition interlock device is required by law, such ignition interlock device shall be approved by the division and maintained at the person's expense. Proof of the installation of such ignition interlock device, for the entire period required by the applicable law, shall be provided to the division before the person's driving privileges are fully reinstated.

(e) Except as provided further, any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business. The provisions of this subsection shall not apply to any person whose driving privileges have been restricted for the remainder of the one-year suspension period as provided in subsection (a)(1) or (a)(3).

(f) Upon expiration of the period of time for which restrictions are imposed pursuant to this section, the licensee may apply to the division for the return of any license previously surrendered by the licensee. If the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's driving privileges have been suspended or revoked prior to expiration.

(g) Any person who has had the person's driving privileges suspended, restricted or revoked pursuant to subsection (a), (b) or (c) of K.S.A. 8-1014, prior to the amendments by ~~this act~~ *section 16 of chapter 172 of the 2012 Session Laws of Kansas* and section 14 of chapter 105 of the 2011 Session Laws of Kansas, may apply to the division to have the suspension, restriction or revocation penalties modified in conformity with the provisions of subsection (a), (b) or (c) of K.S.A. 8-1014, and amendments thereto. The division shall assess an application fee of \$100 for a person to apply to modify the suspension, restriction or revocation penalties previously issued. The division shall modify the suspension, restriction or revocation penalties, unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court.

(h) The division shall remit all application fees collected pursuant to subsections (a) and (g) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the

state treasury and shall credit such moneys to the division of vehicles operating fund until an aggregate amount of \$100,000 is credited to the division of vehicles operating fund each fiscal year. On and after an aggregate amount of \$100,000 is credited to such fund each fiscal year, the entire amount of such remittance shall be credited to the community corrections supervision fund created by K.S.A. 2013 Supp. 75-52,113, and amendments thereto. The application fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such application. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 2. K.S.A. 2013 Supp. 8-2110 is hereby amended to read as follows: 8-2110. (a) Failure to comply with a traffic citation means failure either to: (1) Appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed; or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) (1) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing notice, the division of vehicles will be notified to suspend the person's driving privileges. The district or municipal court may charge an additional fee of \$5 for mailing such notice. Upon the person's failure to comply within such 30 days of mailing notice, the district or municipal court shall electronically notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. When the court determines the person has complied with the terms of the traffic citation, the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.

(2) (A) In lieu of suspension under paragraph (1), the driver may submit to the division of vehicles a written request for restricted driving privileges, with a non-refundable \$25 application fee, to be applied by the division of vehicles for additional administrative costs to implement

restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund.

*(B) A person whose driver's license has expired during the period when such person's drivers license has been suspended for failure to pay fines for traffic citations, the driver may submit to the division of vehicles a written request for restricted driving privileges, with a non-refundable \$25 application fee, to be applied by the division of vehicles for additional administrative costs to implement restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund. An individual shall not qualify for restricted driving privileges pursuant to this section unless the following conditions are met: (i) The suspended license that expired was issued by the division of vehicles; (ii) the suspended license resulted from the individual's failure to comply with a traffic citation pursuant to subsection (b)(1); (iii) the traffic citation that resulted in the failure to comply pursuant to subsection (b)(1) was issued in this state; and (iv) the individual has not previously received a stayed suspension as a result of a driving while suspended conviction.*

~~(B)~~(C) Upon review and approval of the driver's eligibility, the driving privileges will be restricted by the division of vehicles for a period up to one year or until the terms of the traffic citation have been complied with and the court shall immediately electronically notify the division of vehicles of such compliance. If the driver fails to comply with the traffic citation within the one year restricted period, the driving privileges will be suspended by the division of vehicles until the court determines the person has complied with the terms of the traffic citation and the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension action. When restricted driving privileges are approved pursuant to this section, the person's driving privileges shall be restricted to driving only under the following circumstances: (i) In going to or returning from the person's place of employment or schooling; (ii) in the course of the person's employment; (iii) in going to or returning from an appointment with a health care provider or during a medical emergency; and (iv) in going to and returning from probation or parole meetings, drug or alcohol counseling or any place the person is required to go by a court.

(c) Except as provided in subsection (d), when the district or munic-

ipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$59 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued and regardless of any application for restricted driving privileges. Such reinstatement fee shall be in addition to any fine, restricted driving privilege application fee, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit 42.37% of such moneys to the division of vehicles operating fund, 31.78% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, 10.59% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2013 Supp. 20-1a15, and amendments thereto.

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

(e) Except as provided further, the reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after ~~the effective date of this act through June 30, 2013~~ *July 1, 2013, through July 1, 2015*, the supreme court may impose an additional charge, not to exceed \$22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 3. K.S.A. 2013 Supp. 8-1015, 8-2110 and 8-2110a are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2014.

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## CHAPTER 68

Senate Substitute for HOUSE BILL No. 2101

AN ACT concerning utilities; relating to renewable energy resources; amending K.S.A. 2013 Supp. 66-1,184, 66-1265, 66-1266, 66-1267 and 66-1271 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 66-1,184 is hereby amended to read as follows: 66-1,184. (a) Except as provided in subsection (b), every public utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, upon request of such customer, whereby such customer may attach or connect to the utility's delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer's energy producing system into the utility's system. No such apparatus or device shall either cause damage to the public utility's system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation on such customer's monthly bill for energy supplied to the utility by such customer.

(b) (1) For purposes of this subsection:

(A) "Utility" means an electric public utility, as defined by K.S.A. 66-101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or a nonstock member-owned electric cooperative corporation incorporated in this state, or a municipally owned or operated electric utility;

(B) "school" means Cloud county community college and Dodge City community college.

(2) Every utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, if such customer is a residential customer of the utility and owns a renewable generator with a capacity of 25 kilowatts or less, or is a commercial customer of the utility and owns a renewable generator with a capacity of 200 kilowatts or less or is a school and owns a renewable generator with a capacity of 1.5 megawatts or less.

Such generator shall be appropriately sized for such customer's anticipated electric load. A commercial customer who uses the operation of a renewable generator in connection with irrigation pumps shall not request more than 10 irrigation pumps connected to renewable generators be attached or connected to the utility's system. At the customer's delivery point on the customer's side of the retail meter such customer may attach or connect to the utility's delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer's energy producing system into the utility's system. No such apparatus or device shall either cause damage to the utility's system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation for energy supplied to the utility by such customer. Such compensation shall be not less than 100% of the utility's monthly system average cost of energy per kilowatt hour except that in the case of renewable generators with a capacity of 200 kilowatts or less, such compensation shall be not less than 150% of the utility's monthly system average cost of energy per kilowatt hour. A utility may credit such compensation to the customer's account or pay such compensation to the customer at least annually or when the total compensation due equals \$25 or more.

(3) A customer-generator of any investor owned utility shall have the option of entering into a contract pursuant to this subsection (b) or utilizing the net metering and easy connection act. The customer-generator shall exercise the option in writing, filed with the utility.

(c) The following terms and conditions shall apply to contracts entered into under subsection (a) or (b):

(1) The utility will supply, own, and maintain all necessary meters and associated equipment utilized for billing. In addition, and for the purposes of monitoring customer generation and load, the utility may install at its expense, load research metering. The customer shall supply, at no expense to the utility, a suitable location for meters and associated equipment used for billing and for load research;

(2) for the purposes of insuring the safety and quality of utility system power, the utility shall have the right to require the customer, at certain times and as electrical operating conditions warrant, to limit the production of electrical energy from the generating facility to an amount no greater than the load at the customer's facility of which the generating facility is a part;

(3) the customer shall furnish, install, operate, and maintain in good order and repair and without cost to the utility, such relays, locks and seals, breakers, automatic synchronizer, and other control and protective apparatus as shall be designated by the utility as being required as suitable for the operation of the generator in parallel with the utility's system. In any case where the customer and the utility cannot agree to terms and

conditions of any such contract, the state corporation commission shall establish the terms and conditions for such contract. In addition, the utility may install, own, and maintain a disconnecting device located near the electric meter or meters. Interconnection facilities between the customer's and the utility's equipment shall be accessible at all reasonable times to utility personnel. Upon notification by the customer of the customer's intent to construct and install parallel generation, the utility shall provide the customer a written estimate of all costs that will be incurred by the utility and billed to the customer to accommodate the interconnection. The customer may be required to reimburse the utility for any equipment or facilities required as a result of the installation by the customer of generation in parallel with the utility's service. The customer shall notify the utility prior to the initial energizing and start-up testing of the customer-owned generator, and the utility shall have the right to have a representative present at such test;

(4) the utility may require a special agreement for conditions related to technical and safety aspects of parallel generation; and

(5) the utility may limit the number and size of renewable generators to be connected to the utility's system due to the capacity of the distribution line to which such renewable generator would be connected, and in no case shall the utility be obligated to purchase an amount greater than 4% of such utility's peak power requirements.

(d) Service under any contract entered into under subsection (a) or (b) shall be subject to either the utility's rules and regulations on file with the state corporation commission, which shall include a standard interconnection process and requirements for such utility's system, or the current federal energy regulatory commission interconnection procedures and regulations.

(e) In any case where the owner of the renewable generator and the utility cannot agree to terms and conditions of any contract provided for by this section, the state corporation commission shall establish the terms and conditions for such contract.

(f) The governing body of any school desiring to proceed under this section shall, prior to taking any action permitted by this section, make a finding that either: (1) Net energy cost savings will accrue to the school from such renewable generation over a 20-year period; or (2) that such renewable generation is a science project being conducted for educational purposes and that such project may not recoup the expenses of the project through energy cost savings. Any school proceeding under this section may contract or enter into a finance, pledge, loan or lease-purchase agreement with the Kansas development finance authority as a means of financing the cost of such renewable generation.

(g) ~~For the purpose of meeting the requirements of K.S.A. 2013 Supp. 66-1258, and amendments thereto, Each kilowatt of nameplate capacity of the parallel generation of electricity provided for in this sec-~~

tion shall be included as part of the state's renewable energy generation count as 1.10 kilowatts toward the compliance of the affected utility, as defined in K.S.A. 2013 Supp. 66-1257, and amendments thereto, and with whom the customer-generator has contracted, with the renewable energy standards act in K.S.A. 2013 Supp. 66-1256 through 66-1262, and amendments thereto.

(h) The provisions of the net metering and easy connection act shall not preclude the state corporation commission from approving net metering tariffs upon request of an electric utility for other methods of renewable generation not prescribed in subsection (b)(1) of K.S.A. 2013 Supp. 66-1264, and amendments thereto.

Sec. 2. K.S.A. 2013 Supp. 66-1265 is hereby amended to read as follows: 66-1265. Each utility shall:

(a) Make net metering available to customer-generators on a first-come, first-served basis, until the total rated generating capacity of all net metered systems equals or exceeds one percent of the utility's peak demand during the previous year. The commission may increase the total rated generating capacity of all net metered systems to an amount above one percent after conducting a hearing pursuant to K.S.A. 66-101d, and amendments thereto;

~~(b) offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator and shall not charge the customer-generator any additional standby, capacity, interconnection or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator;~~

~~(e) provide a residential an appropriate class bidirectional meter to the customer-generator at no charge, but may charge the customer-generator for the cost of any additional metering or distribution equipment necessary to accommodate the customer-generator's facility; and~~

~~(d)(c) disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the utility;~~

(d) for any customer-generator which began operating its renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014, offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator and shall not charge the customer-generator any additional standby, capacity, interconnection or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(e) for any customer-generator which began operating its renewable

*energy resource under an interconnect agreement with the utility on or after July 1, 2014, have the option to propose, within an appropriate rate proceeding, the application of time-of-use rates, minimum bills or other rate structures that would apply to all such customer-generators prospectively.*

Sec. 3. K.S.A. 2013 Supp. 66-1266 is hereby amended to read as follows: 66-1266. (a) *Prior to January 1, 2030, for any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014:*

(1) *If the electricity supplied by the utility exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility in accordance with normal practices for customers in the same rate class.*

~~(b)~~(2) *If a such customer-generator generates electricity in excess of the customer-generator's monthly consumption, all such net excess energy (NEG), expressed in kilowatt-hours, shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption, expressed in kilowatt-hours, in subsequent months.*

(3) *Any interconnect agreement between such customer-generator and a utility and all such NEG generated under such agreement shall be transferrable and continue in place until January 1, 2030, regardless of whether there is a change in ownership of the property on which the renewable energy resource is located.*

(3) *Any NEG resulting from renewable energy resources that are installed on and after July 1, 2014, but are part of an installation of a renewable energy resource that was operating prior to July 1, 2014, shall be carried forward and credited to the customer as if such resources had begun operation prior to July 1, 2014.*

~~(c)~~(4) *Any net excess generation credit remaining in a net-metering customer's account at the end of each calendar on March 31 of each year shall expire.*

(b) *For any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility on and after July 1, 2014:*

(1) *If the electricity supplied by the utility exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility.*

(2) *If such customer-generator generates electricity in excess of the customer-generator's monthly consumption, all such NEG remaining in such customer-generator's account at the end of each billing period shall be credited to the customer at a rate of 100% of the utility's monthly system average cost of energy per kilowatt hour.*

(c) *On and after January 1, 2030, for all customer-generators, regardless of when such customer-generators entered into an interconnect agreement with the utility:*

(1) *If the electricity supplied by the utility exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility; and*

(2) *if such customer-generator generates electricity in excess of the customer-generator's monthly consumption, all such NEG remaining in a customer-generator's account at the end of each billing period shall be credited to the customer at a rate of 100% of the utility's monthly system average cost of energy per kilowatt hour.*

Sec. 4. K.S.A. 2013 Supp. 66-1267 is hereby amended to read as follows: 66-1267. ~~Each~~ (a) *For customer-generators that began operating a renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014:*

(1) *Such utility shall allow:*

~~(a)~~(A) *Residential customer-generators to generate electricity subject to net metering up to 25 kilowatts; and*

~~(b)~~(B) *commercial, industrial, school, local government, state government, federal government, agricultural and institutional customer-generators to generate electricity subject to net metering up to 200 kilowatts.*

(2) *Nothing in this act shall be construed to prevent such customer-generators from installing additional renewable energy resources after July 1, 2014, that will generate electricity pursuant to the restrictions contained in paragraph (1).*

(b) *For customer-generators that begin operating a renewable energy resource under an interconnect agreement with the utility after July 1, 2014, such utility shall allow:*

(1) *All residential customer-generators to generate electricity subject to net metering up to 15 kilowatts;*

(2) *commercial, industrial, religious institution, local government, state government, federal government, agricultural and industrial customer-generators to generate electricity subject to net metering up to 100 kilowatts, unless otherwise agreed to by the utility and the customer-generator; and*

(3) *school customer-generators to generate electricity subject to net metering up to 150 kilowatts. For the purpose of this section, "school" means any postsecondary educational institution as defined in K.S.A. 74-3201b, and amendments thereto, or any public or private school which provides instruction for students enrolled in grade kindergarten or grades one through 12.*

(c) *Customer-generators shall appropriately size their generation to their expected load.*

Sec. 5. K.S.A. 2013 Supp. 66-1271 is hereby amended to read as follows: 66-1271. ~~The estimated generating~~ *Each kilowatt of nameplate capacity of all net metered facilities operating under the provisions of this act shall count as 1.10 kilowatts toward the affected utility's compliance with the renewable energy standards act in K.S.A. 2013 Supp. 66-1256 through 66-1262, and amendments thereto.*

Sec. 6. K.S.A. 2013 Supp. 66-1,184, 66-1265, 66-1266, 66-1267 and 66-1271 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2014.

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## CHAPTER 69

### HOUSE BILL No. 2447°

AN ACT concerning real property; relating to trespassers.

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

Section 1. (a) A possessor of any fee, reversionary or easement interest in real property, including an owner, lessee or other lawful occupant, owes a trespasser only the duty of care that existed at common law or in statute as of July 1, 2014.

(b) This section does not affect any immunities from or defenses to civil liability:

(1) Established by another section of the Kansas Statutes Annotated, and amendments thereto; or

(2) available at common law to which a possessor of real property may be entitled.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2014.

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## CHAPTER 70

HOUSE BILL No. 2577  
(Amended by Chapter 115)

AN ACT concerning the newborn infant protection act; relating to anonymity of parent surrendering an infant; amending K.S.A. 2013 Supp. 38-2282 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 38-2282 is hereby amended to read as follows: 38-2282. (a) This section shall be known and may be cited as the newborn infant protection act.

(b) A parent or other person having lawful custody of an infant which is 45 days old or younger and which has not suffered bodily harm may surrender physical custody of the infant to any employee who is on duty at a *police station, sheriff's office, law enforcement center*, fire station, city or county health department or medical care facility as defined by K.S.A. 65-425, and amendments thereto. Such employee shall take physical custody of an infant surrendered pursuant to this section. *A parent or other person voluntarily surrendering an infant under this subsection shall not be required to reveal personally identifiable information, but may be offered the opportunity to provide information concerning the infant's familial or medical history.*

(c) *A person or facility to whom an infant is delivered pursuant to this subsection shall not reveal the name or other personally identifiable information of the person who delivered the infant unless there is a reasonable suspicion that the infant has been abused, and such person or such facility shall be immune from civil or criminal liability for any action taken pursuant to this subsection.*

~~(e)~~(d) As soon as possible after a person takes physical custody of an infant under this section, such person shall notify a local law enforcement agency that the person has taken physical custody of an infant pursuant to this section. Upon receipt of such notice a law enforcement officer from such law enforcement agency shall take custody of the infant as an abandoned-~~child~~ *infant*. The law enforcement agency shall deliver the infant to a facility or person designated by the secretary pursuant to K.S.A. 2013 Supp. 38-2232, and amendments thereto.

~~(d)~~(e) Any person, city or county or agency thereof or medical care facility taking physical custody of an infant surrendered pursuant to this section shall perform any act necessary to protect the physical health or safety of the infant, and shall be immune from liability for any injury to the infant that may result therefrom.

~~(e)~~(f) Upon request, all medical records of the infant shall be made available to the department of social and rehabilitation services and given to the person awarded custody of such infant. The medical facility providing such records shall be immune from liability for such records release.

Sec. 2. K.S.A. 2013 Supp. 38-2282 is hereby repealed.

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

Approved April 16, 2014.

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## CHAPTER 71

Senate Substitute for HOUSE BILL No. 2065

AN ACT concerning district magistrate judges; relating to jurisdiction; appeals; amending K.S.A. 61-3903 and K.S.A. 2013 Supp. 20-302b, 22-3602, 22-3609a, 38-2273, 38-2382, 59-2401a, 60-2102, 60-2103a and 61-3902 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 20-302b is hereby amended to read as follows: 20-302b. (a) *Subject to assignment pursuant to K.S.A. 20-329, and amendments thereto*, a district magistrate judge shall have the jurisdiction and power, in any case in which a violation of the laws of the state is charged, to conduct the trial of traffic infractions, cigarette or tobacco infractions or misdemeanor charges, to conduct *felony first appearance hearings and* the preliminary examination of felony charges and to hear *misdemeanor or felony arraignments subject to assignment pursuant to K.S.A. 20-329, and amendments thereto*. Except as otherwise provided, in civil cases, a district magistrate judge shall have jurisdiction over actions filed under the code of civil procedure for limited actions, K.S.A. 61-2801 et seq., and amendments thereto, and concurrent jurisdiction, powers and duties with a district judge. Except as otherwise specifically provided in *this subsection and subsection (b), in all other civil cases*, a district magistrate judge shall ~~not have jurisdiction or cognizance over the following actions:~~

(1) ~~Any action, other than an action seeking judgment for an unsecured debt not sounding in tort and arising out of a contract for the provision of goods, services or money, in which the amount in controversy, exclusive of interests and costs, exceeds \$10,000. The provisions of this subsection shall not apply to actions filed under the code of civil procedure for limited actions, K.S.A. 61-2801 et seq., and amendments thereto. In actions of replevin, the affidavit in replevin or the verified petition fixing the value of the property shall govern the jurisdiction. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code or to issue support orders as provided by paragraph (6) of this subsection;~~

(2) ~~actions against any officers of the state, or any subdivisions thereof, for misconduct in office;~~

~~(3) actions for specific performance of contracts for real estate;~~  
~~(4) actions in which title to real estate is sought to be recovered or in which an interest in real estate, either legal or equitable, is sought to be established. Nothing in this paragraph shall be construed as limiting the right to bring an action for forcible detainer as provided in the acts contained in K.S.A. 61-3801 through 61-3808, and amendments thereto. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code;~~

~~(5) actions to foreclose real estate mortgages or to establish and foreclose liens on real estate as provided in the acts contained in article 11 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto;~~

~~(6) actions for divorce, separate maintenance or custody of minor children. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to: (A) Except as provided in subsection (c), hear any action pursuant to the Kansas code for care of children or the revised Kansas juvenile justice code, (B) establish, modify or enforce orders of support, including, but not limited to, orders of support pursuant to the Kansas parentage act, K.S.A. 2013 Supp. 23-2201 et seq., and amendments thereto, the uniform interstate family support act, K.S.A. 2013 Supp. 23-36,101 et seq., and amendments thereto, articles 29 or 30 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 39-718b or 39-755 or K.S.A. 2013 Supp. 23-3101 through 23-3113, 38-2338, 38-2339 or 38-2350, and amendments thereto; or (C) enforce orders granting visitation rights or parenting time;~~

~~(7) habeas corpus;~~

~~(8) receiverships;~~

~~(9) change of name;~~

~~(10) declaratory judgments;~~

~~(11) mandamus and quo warranto;~~

~~(12) injunctions;~~

~~(13) class actions;~~

~~(14) rights of majority; and~~

~~(15) actions pursuant to K.S.A. 59-29a01 et seq., and amendments thereto have jurisdiction over any civil action not filed under the code of civil procedure for limited actions only with the consent of the parties. A district magistrate judge shall have jurisdiction over uncontested actions for divorce.~~

(b) Notwithstanding the provisions of subsection (a), in the absence, disability or disqualification of a district judge, a district magistrate judge may:

(1) Grant a restraining order, as provided in K.S.A. 60-902, and amendments thereto;

(2) appoint a receiver, as provided in K.S.A. 60-1301, and amendments thereto; and

(3) make any order authorized by K.S.A. 23-2707, and amendments thereto.

(c) (1) *All actions or proceedings before a district magistrate judge regularly admitted to practice law in Kansas shall be on the record if such actions or proceedings would be on the record before a district judge.*

(2) In accordance with the limitations and procedures prescribed by law, and subject to any rules of the supreme court relating thereto, any appeal permitted to be taken from an order or final decision of a district magistrate judge: (A) *who is not regularly admitted to practice law in Kansas* shall be tried and determined de novo by a district judge, except that in civil cases where a record was made of the action or proceeding before the district magistrate judge, the appeal shall be tried and determined on the record by a district judge; and (B) *who is regularly admitted to practice law in Kansas shall be to the court of appeals.*

(d) Except as provided in subsection (e), upon motion of a party, the chief judge may reassign an action from a district magistrate judge to a district judge.

(e) Upon motion of a party for a petition or motion filed under the Kansas code for care of children requesting termination of parental rights pursuant to K.S.A. 2013 Supp. 38-2361 through 38-2367, and amendments thereto, the chief judge shall reassign such action from a district magistrate judge to a district judge.

Sec. 2. K.S.A. 2013 Supp. 22-3602 is hereby amended to read as follows: 22-3602. (a) Except as otherwise provided, an appeal to the appellate court having jurisdiction of the appeal may be taken by the defendant as a matter of right from any judgment against the defendant in the district court and upon appeal any decision of the district court or intermediate order made in the progress of the case may be reviewed. No appeal shall be taken by the defendant from a judgment of conviction before a district judge upon a plea of guilty or nolo contendere, except that jurisdictional or other grounds going to the legality of the proceedings may be raised by the defendant as provided in K.S.A. 60-1507, and amendments thereto.

(b) Appeals to the court of appeals may be taken by the prosecution from cases before a district judge, or a district magistrate judge who is regularly admitted to practice law in Kansas, as a matter of right in the following cases, and no others:

- (1) From an order dismissing a complaint, information or indictment;
- (2) from an order arresting judgment;
- (3) upon a question reserved by the prosecution; or
- (4) upon an order granting a new trial in any case involving a class A or B felony or for crimes committed on or after July 1, 1993, in any case involving an off-grid crime.

(c) Procedures for appeals by the prosecution enumerated in subsection (b) shall be as provided in supreme court rules.

(d) Appeals to a district judge may be taken by the prosecution from cases before a district magistrate judge *who is not regularly admitted to practice law in Kansas* as a matter of right in the cases enumerated in subsection (b) and from orders enumerated in K.S.A. 22-3603, and amendments thereto.

(e) Any criminal case on appeal to the court of appeals may be transferred to the supreme court as provided in K.S.A. 20-3016 and 20-3017, and amendments thereto, and any party to such case may petition the supreme court for review of any decision of the court of appeals as provided in subsection (b) of K.S.A. 20-3018, and amendments thereto, except that any such party may appeal to the supreme court as a matter of right in any case in which a question under the constitution of either the United States or the state of Kansas arises for the first time as a result of the decision of the court of appeals.

(f) For crimes committed on or after July 1, 1993, an appeal by the prosecution or the defendant relating to sentences imposed pursuant to a presumptive sentencing guidelines system as provided in K.S.A. 21-4701 et seq., prior to their repeal, or the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, shall be as provided in K.S.A. 21-4721, prior to its repeal, or K.S.A. 2013 Supp. 21-6820, and amendments thereto.

Sec. 3. K.S.A. 2013 Supp. 22-3609a is hereby amended to read as follows: 22-3609a. (1) A defendant shall have the right to appeal *to a district judge* from any judgment of a district magistrate judge *who is not regularly admitted to practice law in Kansas*. The chief judge shall be responsible for assigning a district judge for any such appeal. The appeal shall stay all further proceedings upon the judgment appealed from.

(2) An appeal to a district judge shall be taken by filing a notice of appeal with the clerk of the court. No appeal shall be filed until after the sentence has been imposed. No appeal shall be taken more than 14 days after the date the sentence is imposed.

(3) The clerk of the district court shall deliver the complaint, warrant and any appearance bond to the district judge to whom such appeal is assigned. The case shall be tried de novo before the assigned district judge.

(4) No advance payment of a docket fee shall be required when the appeal is taken.

(5) All appeals taken by a defendant ~~from a district magistrate judge~~ in misdemeanor cases *from a district magistrate judge who is not regularly admitted to practice law in Kansas* shall be tried by the court unless a jury trial is requested in writing by the defendant. All appeals taken by a defendant ~~from a district magistrate judge~~ in traffic infraction and cig-

arette or tobacco infraction cases *from a district magistrate judge who is not regularly admitted to practice law in Kansas* shall be to the court.

(6) Notwithstanding the other provisions of this section, appeal from a conviction rendered pursuant to subsection (c) of K.S.A. 22-2909, and amendments thereto, shall be conducted only on the record of the stipulation of facts relating to the complaint.

Sec. 4. K.S.A. 2013 Supp. 38-2273 is hereby amended to read as follows: 38-2273. (a) An appeal may be taken by any party or interested party from any order of temporary custody, adjudication, disposition, finding of unfitness or termination of parental rights.

(b) An appeal from an order entered by a district magistrate judge *who is not regularly admitted to practice law in Kansas* shall be to a district judge. The appeal shall be heard on the basis of the record within 30 days from the date the notice of appeal is filed. If no record was made of the proceedings, the trial shall be de novo.

(c) Procedure on appeal shall be governed by article 21 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

(d) Notwithstanding any other provision of law to the contrary, appeals under this section shall have priority over all other cases.

(e) Every notice of appeal, docketing statement and brief shall be verified by the appellant if the appellant has been personally served at any time during the proceedings. Failure to have the required verification shall result in the dismissal of the appeal.

(f) While a case is on appeal from the district court, the district court or magistrate court shall continue to have jurisdiction over all issues not specifically appealed and shall conduct timely permanency hearings.

Sec. 5. K.S.A. 2013 Supp. 38-2382 is hereby amended to read as follows: 38-2382. (a) An appeal from a district magistrate judge *who is not regularly admitted to practice law in Kansas* shall be to a district judge. The appeal shall be by trial de novo unless the parties agree to a de novo review on the record of the proceedings. The appeal shall be heard within 30 days from the date the notice of appeal was filed.

(b) Appeals from a district judge, *or a district magistrate judge who is regularly admitted to practice law in Kansas*, shall be to the court of appeals.

(c) Procedure on appeal shall be governed by article 21 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 6. K.S.A. 2013 Supp. 59-2401a is hereby amended to read as follows: 59-2401a. (a) An appeal by an interested party from a district magistrate judge *who is not regularly admitted to practice law in Kansas* to a district judge may be taken no later than 14 days from any final order, judgment or decree entered in any proceeding pursuant to:

(1) The Kansas adoption and relinquishment act~~(, K.S.A. 59-2111 et seq., and amendments thereto);~~

(2) the care and treatment act for mentally ill persons~~—~~ (K.S.A. 59-2945 et seq., and amendments thereto);

(3) the care and treatment act for persons with an alcohol or substance abuse problem~~—~~ (K.S.A. 59-29b45 et seq., and amendments thereto); or

(4) the act for obtaining a guardian or conservator, or both~~—~~ (K.S.A. 59-3050 et seq., and amendments thereto).

The appeal shall be heard no later than 30 days from the date the notice of appeal is filed. If no record was made of the proceedings, the trial shall be de novo. Except as provided further, if a record was made of the proceedings, the district judge shall conduct the appeal on the record. Upon motion of any party to the proceedings, the district judge may hold a trial de novo.

(b) An appeal by an interested party from ~~the district court~~ *a district judge, or a district magistrate judge who is regularly admitted to practice law in Kansas*, to an appellate court shall be taken pursuant to article 21 of chapter 60 of the Kansas Statutes Annotated, *and amendments thereto*, from any final order, judgment or decree entered in any proceeding pursuant to:

(1) The Kansas adoption and relinquishment act~~—~~ (K.S.A. 59-2111 et seq., and amendments thereto);

(2) the care and treatment act for mentally ill persons~~—~~ (K.S.A. 59-2945 et seq., and amendments thereto);

(3) the sexually violent predator act~~—~~ (K.S.A. 59-29a01 et seq., and amendments thereto);

(4) the care and treatment act for persons with an alcohol or substance abuse problem~~—~~ (K.S.A. 59-29b45 et seq., and amendments thereto); or

(5) the act for obtaining a guardian or conservator, or both~~—~~ (K.S.A. 59-3050 et seq., and amendments thereto).

Except for cases otherwise specifically provided for by law, appeals under this section shall have priority over all others.

(c) Pending the determination of an appeal pursuant to ~~section~~ *subsection* (a) or (b) ~~of this section~~, any order appealed from shall continue in force unless modified by temporary orders entered by the court hearing the appeal. The supersedeas bond provided for in K.S.A. 60-2103, and amendments thereto, shall not stay proceedings under an appeal from the district court to an appellate court.

(d) In an appeal taken pursuant to ~~section~~ *subsection* (a) or (b) ~~of this section~~, the court from which the appeal is taken may require an appropriate party, other than the state of Kansas, any subdivision thereof, and all cities and counties in this state, to file a bond in such sum and with such sureties as may be fixed and approved by the court to ensure that the appeal will be prosecuted without unnecessary delay and to ensure

the payment of all judgments and any sums, damages and costs that may be adjudged against that party.

(e) As used in this section, “interested party” means:

(1) The parent in a proceeding pursuant to the Kansas adoption and relinquishment act—(, K.S.A. 59-2111 et seq., and amendments thereto);

(2) the patient under the care and treatment act for mentally ill persons—(, K.S.A. 59-2945 et seq., and amendments thereto);

(3) the patient under the care and treatment act for persons with an alcohol or substance abuse problem—(, K.S.A. 59-29b45 et seq., and amendments thereto);

(4) the person adjudicated a sexually violent predator under the sexually violent predator act—(, K.S.A. 59-29a01 et seq., and amendments thereto);

(5) the ward or conservatee under the act for obtaining a guardian or conservator, or both—(, K.S.A. 59-3050 et seq., and amendments thereto);

(6) the parent of a minor person adjudicated a ward or conservatee under the act for obtaining a guardian or conservator, or both—(, K.S.A. 59-3050 et seq., and amendments thereto);

(7) the petitioner in the case on appeal; and

(8) any other person granted interested party status by the court from which the appeal is being taken.

(f) This section shall be part of and supplemental to the Kansas probate code.

Sec. 7. K.S.A. 2013 Supp. 60-2102 is hereby amended to read as follows: 60-2102. (a) *Appeal to court of appeals as matter of right.* Except for any order or final decision of a district magistrate judge *who is not regularly admitted to practice law in Kansas*, the appellate jurisdiction of the court of appeals may be invoked by appeal as a matter of right from:

(1) An order that discharges, vacates or modifies a provisional remedy.

(2) An order that grants, continues, modifies, refuses or dissolves an injunction, or an order that grants or refuses relief in the form of mandamus, quo warranto or habeas corpus.

(3) An order that appoints a receiver or refuses to wind up a receivership or to take steps to accomplish the purposes thereof, such as directing sales or other disposal of property, or an order involving the tax or revenue laws, the title to real estate, the constitution of this state or the constitution, laws or treaties of the United States.

(4) A final decision in any action, except in an action where a direct appeal to the supreme court is required by law. In any appeal or cross appeal from a final decision, any act or ruling from the beginning of the proceedings shall be reviewable.

(b) *Appeal to supreme court as matter of right.* The appellate juris-

diction of the supreme court may be invoked by appeal as a matter of right from:

(1) A preliminary or final decision in which a statute of this state has been held unconstitutional as a violation of Article 6 of the ~~Kansas~~ constitution *of the state of Kansas* pursuant to K.S.A. 2013 Supp. 72-64b03, and amendments thereto. Any appeal filed pursuant to this subsection (b)(1) shall be filed within 30 days of the date the preliminary or final decision is filed.

(2) A final decision of the district court in any action challenging the constitutionality of or arising out of any provision of the Kansas expanded lottery act, any lottery gaming facility management contract or any race-track gaming facility management contract entered into pursuant to the Kansas expanded lottery act.

(c) *Other appeals.* When a district judge, *or a district magistrate judge who is regularly admitted to practice law in Kansas*, in making in a civil action an order not otherwise appealable under this section, is of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, the judge shall so state in writing in such order. The court of appeals may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within 14 days after the entry of the order under such terms and conditions as the supreme court fixes by rule. Application for an appeal ~~hereunder~~ *pursuant to this subsection* shall not stay proceedings in the district court unless the ~~district~~ *judge of the district court* or an appellate court or a judge thereof so orders.

Sec. 8. K.S.A. 2013 Supp. 60-2103a is hereby amended to read as follows: 60-2103a. (a) In actions commenced in the district courts of this state all appeals from orders or final decisions of a district magistrate judge *who is not regularly admitted to practice law in Kansas* shall be heard by a district judge. Except as otherwise provided by law, such appeals shall be taken by notice of appeal specifying the order or decision complained of and shall be filed with the clerk of the district court within 14 days after the entry of such order or decision. The notice of appeal shall specify the party or parties taking the appeal; shall designate the order or decision appealed from; and shall state that such appeal is being taken from an order or decision of a district magistrate judge. The appealing party shall cause notice of the appeal to be served upon all of the parties to the action in accordance with the provisions of K.S.A. 60-205, and amendments thereto. Upon filing the notice of appeal, the appeal shall be deemed perfected.

(b) Except as otherwise provided by law or rule of the supreme court, the provisions of subsections (b) through (i) of K.S.A. 60-2103, and

amendments thereto, shall be applicable to appeals from orders and decisions of district magistrate judges *who are not regularly admitted to practice law in Kansas*.

Sec. 9. K.S.A. 2013 Supp. 61-3902 is hereby amended to read as follows: 61-3902. (a) All appeals from orders, rulings, decisions or judgments of district magistrate judges *who are not regularly admitted to practice law in Kansas* under the code of civil procedure for limited actions shall be taken in the manner provided in subsection (a) of K.S.A. 60-2103a, and amendments thereto. All appeals from orders, rulings, decisions or judgments of district judges, *or district magistrate judges who are regularly admitted to practice law in Kansas*, under the code of civil procedure for limited actions shall be taken in the manner provided in subsections (a) and (b) of K.S.A. 60-2103, and amendments thereto. Notwithstanding the foregoing provisions of this subsection, if judgment has been rendered in an action for forcible detainer and the defendant desires to appeal from that portion of the judgment granting restitution of the premises, notice of appeal shall be filed within seven days after entry of judgment. The notice of appeal shall specify the party or parties taking the appeal; the order, ruling, decision or judgment appealed from; and the court to which the appeal is taken.

(b) The provisions of K.S.A. 60-2001, and amendments thereto, shall apply to appeals pursuant to this section.

(c) An appeal from an action heard by a district magistrate judge *who is not regularly admitted to practice law in Kansas* shall be taken to a district judge of the county. An appeal from an action heard by a district judge, *or a district magistrate judge who is regularly admitted to practice law in Kansas*, shall be taken to the court of appeals.

Sec. 10. K.S.A. 61-3903 is hereby amended to read as follows: 61-3903. Subject to the rules of the supreme court of this state, once an appeal is perfected, if the judge from whom such appeal is taken is a district magistrate judge *who is not regularly admitted to practice law in Kansas*, such judge shall notify the chief judge of the judicial district that the appeal has been perfected. The chief judge then shall assign the case to a district judge to hear the appeal.

Sec. 11. K.S.A. 61-3903 and K.S.A. 2013 Supp. 20-302b, 22-3602, 22-3609a, 38-2273, 38-2382, 59-2401a, 60-2102, 60-2103a and 61-3902 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 72

Senate Substitute for HOUSE BILL No. 2182

AN ACT concerning legislative review of exceptions to open records; amending K.S.A. 2013 Supp. 40-5515, 45-229 and 74-99b06 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 40-5515 is hereby amended to read as follows: 40-5515. (a) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:

- (1) Name of the insured;
- (2) date, location and amount of the loss;
- (3) copy of the contract between the public adjuster and insured;
- (4) name of the insurer and the amount, expiration date and number of each policy carried by the insured with respect to the loss;
- (5) itemized statement of the insured's recoveries;
- (6) itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;
- (7) a register of all moneys received, deposited, disbursed or withdrawn in connection with a transaction with an insured, including fees, transfers and disbursements from a trust account and all transactions concerning all interest-bearing accounts;
- (8) name of public adjuster who executed the contract;
- (9) name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and
- (10) evidence of financial responsibility in the format prescribed by the commissioner.

(b) Records shall be maintained for at least five years after the termination of the transaction with an insured and shall be open to examination by the commissioner at all times.

(c) Records submitted to the commissioner in accordance with this section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the commissioner and shall not be open for inspection under the Kansas open records act.

~~(d) The provisions of subsection (c) shall expire on July 1, 2014, unless the legislature acts to reenact such provisions. The provisions of subsection (c) shall be reviewed by the legislature prior to July 1, 2014.~~

Sec. 2. K.S.A. 2013 Supp. 45-229 is hereby amended to read as follows: 45-229. (a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

- (1) The public record is of a sensitive or personal nature concerning individuals;

(2) the public record is necessary for the effective and efficient administration of a governmental program; or

(3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house of representatives, by July 15, the language and statutory citation of each exception which will expire in the following year which meets the criteria of an exception as defined in this section. Any exception that is not identified and certified to the president of the senate and the speaker of the house of representatives is not subject to legislative review and shall not expire. If the revisor of statutes fails to certify an exception that the revisor subsequently determines should have been certified, the revisor shall include the exception in the following year's certification after that determination.

(f) "Exception" means any provision of law which creates an exception to disclosure or limits disclosure under the open records act pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any other provision of law.

(g) A provision of law which creates or amends an exception to dis-

closure under the open records law shall not be subject to review and expiration under this act if such provision:

- (1) Is required by federal law;
- (2) applies solely to the legislature or to the state court system;
- (3) has been reviewed and continued in existence twice by the legislature; or
- (4) has been reviewed and continued in existence by the legislature during the 2013 legislative session and thereafter.

(h) (1) The legislature shall review the exception before its scheduled expiration and consider as part of the review process the following:

- (A) What specific records are affected by the exception;
- (B) whom does the exception uniquely affect, as opposed to the general public;
- (C) what is the identifiable public purpose or goal of the exception;
- (D) whether the information contained in the records may be obtained readily by alternative means and how it may be obtained;

(2) an exception may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

(A) Allows the effective and efficient administration of a governmental program, which administration would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) of this subsection (h) would occur if the records were made public.

(i) (1) Exceptions contained in the following statutes as continued in existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas and which have been reviewed and continued in existence twice by the

legislature as provided in subsection (g) are hereby continued in existence: 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2227, 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-251, 38-2212, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, subsections (a)(1) through (43) of 45-221, 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-3336, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126, 65-4019, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-996, 72-4311, 72-4452, 72-5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-2433f, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11, 76-3305, 79-1119, 79-1437f, 79-3234, 79-3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2009 are hereby continued in existence until July 1, 2015, at which time such exceptions shall expire: 17-2036, 40-5301, subsections (a)(45) and (a)(46) of 45-221, 60-3351, 72-972a, 74-99d05 and 75-53,105.

(j) (1) Exceptions contained in the following statutes as continued in existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas and which have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2010 are hereby continued in existence until July 1, 2016, at which time such exceptions shall expire: 12-5358, 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-2326, 44-1132, 60-3333, 65-6154, 71-218, 75-457, 75-712c, 75-723 and 75-7c06.

(k) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) ~~during 2006, 2007 and 2008~~ and which have been reviewed during the 2014 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence ~~until July 1, 2014, at which time such exceptions shall expire:~~ 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-17,150, 12-2001, ~~12-5332~~, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, subsections (a)(44), (45), (46) ~~and~~, (47) and (48) of 45-221, 50-6a11, 56-1a610, 56a-1204, 65-1,243, 65-16,104, 65-3239, ~~66-1233~~, 74-50,184, 74-8134, 74-99b06, 77-503a and 82a-2210.

(l) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2011 are hereby continued in existence until July 1, 2017, at which time such exceptions shall expire: 12-5711, 21-2511, 38-2313, 65-516, 74-8745, 74-8752, 74-8772 and 75-7427.

(m) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2012 and which have been reviewed during the 2013 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a, 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-60c01, 75-712 and 75-5366.

Sec. 3. K.S.A. 2013 Supp. 74-99b06 is hereby amended to read as follows: 74-99b06. (a) All resolutions and orders of the board shall be recorded and authenticated by the signature of the secretary or any assistant secretary of the board. The book of resolutions, orders, minutes of open meetings, annual reports and annual financial statements of the authority shall be public records as defined by K.S.A. 45-215 et seq., and amendments thereto. All public records shall be subject to regular audit as provided in K.S.A. 46-1106, and amendments thereto.

~~(b)-(1)~~ Notwithstanding any provision of K.S.A. 45-215 et seq., and amendments thereto, to the contrary, the following records of the authority shall not be subject to the provisions of the Kansas open records act, when in the opinion of the board, the disclosure of the information in the records would be harmful to the competitive position of the authority:

~~(A)-(1)~~ Proprietary information gathered by or in the possession of the authority from third parties pursuant to a promise of confidentiality;

~~(B)-(2)~~ contract cost estimates prepared for confidential use in award-

ing contracts for research development, construction, renovation, commercialization or the purchase of goods or services; and

~~(C)(3)~~ data, records or information of a proprietary nature produced or collected by or for the authority, its employees, officers or members of its board; financial statements not publicly available that may be filed with the authority from third parties; the identity, accounts or account status of any customer of the authority; consulting or other reports paid for by the authority to assist the authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the authority.

~~(2) — The provisions of this subsection shall expire on July 1, 2009. Prior to such date the legislature shall review the provisions of this subsection.~~

(c) Notwithstanding any provision of this section to the contrary, the authority may claim the benefit of any other exemption to the Kansas open records act listed in K.S.A. 45-215 et seq., and amendments thereto.

Sec. 4. K.S.A. 2013 Supp. 40-5515, 45-229 and 74-99b06 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2014.

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## CHAPTER 73

### SENATE BILL No. 285\*

AN ACT concerning payments for providing vision care services; pertaining to limitations imposed by insurance plans and discount plans.

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

Section 1. No contract issued or renewed on or after the effective date of this act between any insurer, health insurer or any other entity that writes vision care insurance or a vision care discount plan and a vision care provider shall contain any provisions which requires the vision care provider to:

(a) Provide services or materials to an insured under such vision care insurance or health benefit plan or to a subscriber to a vision care discount plan at a fee limited or set by such vision care insurance plan or health benefit plan or vision care discount plan unless the services or materials are reimbursed as covered services under the contract; or

(b) participate in a vision care insurance or a vision care discount plan as a condition to participate in any other health benefit plan or vision care

plan, regardless of whether such vision care plan is a plan of insurance or a vision care discount program which is not an insurance plan.

Sec. 2. No vision care provider shall charge more for services and materials that are not covered services under either vision care insurance or a vision care discount plan than such vision care provider's usual and customary rate for those services and materials.

Sec. 3. (a) No vision care insurance policy or vision care discount plan contract covered by this act shall change the terms, discounts or rates provided therein without the concurrence and agreement at the time of such change by the vision care provider.

(b) No vision care insurance policy or vision care discount plan that provides covered services for materials shall have the effect, directly or indirectly, of limiting the choice of sources and suppliers of materials by a patient of a vision care provider.

Sec. 4. No provision of this act shall prohibit the use of a discount card by a patient or client of a vision care provider if:

(a) Enrollment by the vision care provider is:

(1) Completely voluntary; and

(2) not conditioned upon the vision care provider's participation in any other discount card with different provider terms and conditions or insurance program; and

(b) the discount card program does not make or include any coverage or payment to the vision care provider.

Sec. 5. For the purposes of this act:

(a) (1) "Covered service" means any service or material for which:

(A) Reimbursement from the vision care insurance or health benefit plan is provided for by an insured's vision care insurance plan or health benefit plan contract subject to the application of the vision care insurance or health benefit plan's deductibles, copayments or coinsurance; or

(B) a reimbursement would be available subject to the application of any contractual limitations of deductibles or copayments required under the vision care discount plan coinsurance.

(2) "Covered services" does not include any services or materials covered or provided at a nominal or de minimus rate.

(b) "Contractual discount" means a percentage reduction from a vision care provider's usual and customary rate for providing covered services and materials required under a participating provider agreement.

(c) "Discount card" shall have the meaning ascribed to such term in K.S.A. 50-1,100, and amendments thereto.

(d) "Health benefit plan" shall have the meaning ascribed to such term in K.S.A. 40-4602, and amendments thereto.

(e) "Health insurer" shall have the meaning ascribed to such term in K.S.A. 40-4602, and amendments thereto.

(f) "Material" includes, but is not limited to, lenses, devices contain-

ing lenses, prisms, lens treatments and coatings, contact lenses, orthoptics, vision training and any prosthetic device necessary to correct, relieve, or treat any defect or abnormal condition of the human eye or its adnexa.

(g) “Participating provider agreement” includes a health benefit plan, vision care insurance or a vision care discount plan.

(h) “Participating provider” shall have the meaning ascribed to such term in K.S.A. 40-4602, and amendments thereto.

(i) “Vision care insurance” means an integrated health benefit plan or vision care insurance policy or contract which provides vision benefits pertaining to the provision of covered services or materials.

(j) “Vision care provider” means an optometrist licensed by the board of examiners in optometry or an ophthalmologist licensed by the state board of healing arts.

(k) “Vision care discount plan” means any entity governed by K.S.A. 50-1,100, and amendments thereto, which has been specifically authorized by the vision care providers to provide discounts to patients.

Sec. 6. Sections 1 through 6, and amendments thereto, shall be known and may be cited as the vision care services act.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 17, 2014.

Published in the *Kansas Register* April 24, 2014.

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## CHAPTER 74

SENATE BILL No. 344  
(Amended by Chapter 117)

AN ACT regulating traffic; concerning motor carriers, special permits; relating to oversized loads; transporting hay or feed stuffs; amending K.S.A. 2013 Supp. 8-1911 and 66-1344 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 8-1911 is hereby amended to read as follows: 8-1911. (a) The secretary of transportation with respect to highways under the secretary’s jurisdiction and local authorities with respect to highways under their jurisdiction, in their discretion, upon application, may issue a special permit, which term shall include an authorization number, to the owner or operator of an oversize or overweight vehicle. The special permit shall authorize the special permit holder to operate or move a vehicle or combination of vehicles which exceed the limitations of this act, on a route, or routes, designated in the special permit and in accordance with the terms and conditions of the special permit.

(b) The application for the permit shall describe the vehicle, or com-

combination of vehicles and all loads or cargo for which the special permit is requested, the route or routes on which operation is sought and whether a single trip or annual operation is requested. One special permit may be issued for a vehicle or combination of vehicles, that are both oversize and overweight. A special permit under this section may be for a single trip or for annual operation. The special permit shall designate the route or routes that may be used and any other terms, conditions or restrictions deemed necessary. The secretary of transportation shall charge a fee for each permit or authorization number issued as provided for in subsection (f). No permit shall be required to authorize the moving or operating upon any highway of farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms, or vehicles owned by counties, cities and other political subdivisions of the state, except that this sentence shall not: (1) Exempt trucks owned by counties, cities and other political subdivisions specifically designed and equipped and used exclusively for garbage, refuse or solid waste disposal operations from the maximum gross weight limitations contained in the table in K.S.A. 8-1909, and amendments thereto; or (2) authorize travel on interstate highways.

(c) A permit shall be valid only when the registration on the power unit is equal to or exceeds the total gross weight of the vehicle. When the gross weight of the vehicle exceeds the upper limit of the available registration, the maximum amount of registration must be purchased. The provisions of this subsection shall not apply to a wrecker or tow truck, as defined in K.S.A. 66-1329, and amendments thereto, and registered in accordance with the provisions of K.S.A. 8-143, and amendments thereto.

(d) The secretary or local authority may issue or withhold the permit at the secretary's or local authority's discretion or may limit the number of trips, or establish seasonal or other time limitations within which the vehicles described may be operated on the highways, or may otherwise limit or prescribe conditions of operations of such vehicle or combination of vehicles, when necessary to assure against undue damage to the road. The secretary or local authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(e) Every permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. It shall be unlawful for any person to violate any of the terms or conditions of *the* special permit.

(f) The secretary of transportation shall charge and collect fees as follows:

- (1) Twenty dollars for each single-trip permit;

(2) thirty dollars for each single-trip permit for a large structure, as defined by rules and regulations;

(3) fifty dollars for each single-trip permit for a superload, as defined by rules and regulations;

(4) twenty-five dollars for a five-year permit for vehicles authorized to move bales of hay under subsection (j) on noninterstate highways;

(5) one hundred and fifty dollars for each annual permit; or

(6) two thousand dollars per year for each qualified carrier company for special vehicle combination permits authorized under K.S.A. 8-1915, and amendments thereto, plus \$50 per year for each power unit operating under such annual permit.

No fees shall be charged for permits issued for vehicles owned by counties, cities and other political subdivisions of the state. All permit fees received under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund. The secretary may adopt rules and regulations for payment and collection of all fees. The secretary may adopt rules and regulations implementing the provisions of this section to prescribe standards for any permit program to enhance highway safety.

(g) If any local authority does not desire to exercise the powers conferred on it by this section to issue or deny permits then such a permit from the local authority shall not be required to operate any such vehicle or combination of vehicles on highways under the jurisdiction of such local authority, but in no event shall the jurisdiction of the local authority be construed as extending to any portion of any state highway, any city street designated by the secretary as a connecting link in the state highway system or any highway within the national system of interstate and defense highways, which highways and streets, for the purpose of this section, shall be under the jurisdiction of the secretary.

(h) A house trailer, manufactured home or mobile home which exceeds the width as provided in subsection (a) of K.S.A. 8-1902, and amendments thereto, may be moved on the highways of this state by obtaining a permit as provided in this section, if:

(1) The width of such house trailer, manufactured home or mobile home does not exceed 16½ feet;

(2) the driver of the vehicle pulling the house trailer, manufactured home or mobile home has a valid driver's license; and

(3) the driver carries evidence that the house trailer, manufactured home or mobile home, and the vehicle pulling it, are covered by motor vehicle liability insurance with limits of not less than \$100,000 for injury to any one person, and \$300,000 for injury to persons in any one accident, and \$25,000 for injury to property.

For the purposes of this subsection, the terms "manufactured home"

and “mobile home” shall have the meanings ascribed to them by K.S.A. 58-4202, and amendments thereto.

(i) Upon proper application stating the description and registration of each power unit, the secretary of transportation shall issue permits for a period, from May 1 to November 15, for custom combine operators to tow custom-combine equipment on a trailer within legal dimensions or a trailer especially designed for the transportation of combines or combine equipment at the rate of \$10 per power unit. Each application shall be accompanied by information as required by the secretary. The permit shall allow custom combine operators to haul two combine headers on designated interstate highways provided:

(1) The vehicle plus the load do not exceed 14 feet in width;

(2) the move is completed during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset; and

(3) the vehicle plus the load are not overweight.

(j) Except as provided in paragraph (2) of subsection (d) of K.S.A. 8-1902, and amendments thereto, a vehicle loaded with bales of hay which exceeds the width as provided in subsection (a) of K.S.A. 8-1902, and amendments thereto, may be moved on any highway designated as a part of the national network of highways by obtaining a permit as provided by this section, if:

(1) The vehicle plus the bales of hay do not exceed 12 feet in width;

(2) the vehicle plus the bales of hay do not exceed the height authorized under K.S.A. 8-1904, and amendments thereto;

(3) the move is completed during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset;

(4) the vehicle plus the load are not overweight; and

(5) the vehicle plus the load comply with the signing and marking requirements of paragraph (3) of subsection (d) of K.S.A. 8-1902, and amendments thereto.

(k) If it is determined by the secretary of transportation that a person has been granted a permit and has not complied with the applicable provisions of this section and the rules and regulations of the secretary of transportation relating thereto, the secretary may cancel the permit and may refuse to grant future permits to the individual.

*(l) (1) Vehicles operating under the provisions of a permit issued under subsection (a), which exceed the width limitations prescribed by K.S.A. 8-1902, and amendments thereto, or the length provisions in K.S.A. 8-1904, and amendments thereto, shall have a sign attached which states “OVERSIZE LOAD” and the dimensions of the sign shall be a minimum of seven feet long and 18 inches high. Letters shall be a minimum of 10 inches high with a brush stroke of not less than 1<sup>2</sup>/<sub>5</sub> inches. The sign shall be readily visible from a distance of 500 feet and shall be removed when the vehicle or load no longer exceeds the legal width dimensions prescribed by K.S.A. 8-1902, and amendments thereto, or the length provisions in*

*K.S.A. 8-1904, and amendments thereto. Each such vehicle shall be equipped with red flags on all four corners of the oversize load.*

*(2) Vehicles operating under the provision of a permit issued under subsection (a), which exceed the weight limitations of K.S.A. 8-1908 or 8-1909, and amendments thereto, but do not exceed the width limitations prescribed by K.S.A. 8-1902, and amendments thereto, or the length provisions in K.S.A. 8-1904, and amendments thereto, shall not have a sign attached which states "OVERSIZE LOAD."*

*(m) (1) Vehicles operating under the provisions of a permit issued under subsection (a), which exceed the width limitations prescribed by K.S.A. 8-1902, and amendments thereto, or the length provisions in K.S.A. 8-1904, and amendments thereto, shall not operate: (i) During the time period between 30 minutes after sunset to 30 minutes before sunrise, unless specifically authorized under another statute or regulation; (ii) under conditions where visibility is less than ½ mile; or (iii) when highway surfaces have ice or snow pack or drifting snow.*

*(2) Vehicles operating under the provisions of a permit issued under subsection (a), which exceed the weight limitations of K.S.A. 8-1908 or 8-1909, and amendments thereto, but do not exceed the width limitations prescribed by K.S.A. 8-1902, and amendments thereto, or the length provisions in K.S.A. 8-1904, and amendments thereto, may operate 24-hour days, except that such vehicles shall not operate when highway surfaces have ice or snow pack or drifting snow.*

Sec. 2. K.S.A. 2013 Supp. 66-1344 is hereby amended to read as follows: 66-1344. (a) Whenever the governor or the United States department of agriculture declares that all or any portion of the state is in a state of drought pursuant to subsection (e) of K.S.A. 48-924 et seq., and amendments thereto, the following conditions shall apply to any motor carrier transporting hay or related animal forage feedstuffs to the geographic area as specified in such declaration of drought:

(1) Motor carrier registration and fuel tax permits as enforced by the Kansas department of revenue shall be temporarily suspended;

(2) any licensing, certification and permitting rules and regulations as required by the state corporation commission shall be temporarily suspended;

(3) motor carriers shall not operate during the period beginning 30 minutes after sunset and ending 30 minutes before sunrise, and shall comply with the flags, signs and lighting requirements applicable to overwidth vehicles as provided in K.S.A. 8-1902, and amendments thereto;

~~(4) motor carriers shall not operate during inclement weather conditions;~~

~~(5) oversize or overweight loads shall not be transported when visibility is less than ½ mile, or when conditions of moderate to heavy rain;~~

~~sleet, snow, fog or smoke exist, or when highway surfaces are slippery due to ice or packed snow; and~~

~~(6)—(A) Vehicles which exceed the width limitations prescribed by K.S.A. 8-1902, and amendments thereto, or the length provisions in K.S.A. 8-1904, and amendments thereto, shall not operate unless specifically authorized under another statute or rule and regulation: (i) Under conditions where visibility is less than ½ mile; or (ii) when highway surfaces have ice or snow pack or drifting snow;~~

~~(B) vehicles which exceed the weight limitations of K.S.A. 8-1908 or 8-1909, and amendments thereto, but do not exceed the width limitations prescribed by K.S.A. 8-1902, and amendments thereto, or the length provisions in K.S.A. 8-1904, and amendments thereto, may operate 24-hour days, except that such vehicles shall not operate when highway surfaces have ice or snow pack or drifting snow;~~

~~(5) motor carriers shall not transport a load of more than 12 feet in width and 14 feet, six inches, in height.~~

~~(b) The provisions of subsection (a) shall be effective immediately upon a declaration of a state of drought by the governor or the United States department of agriculture and shall continue in effect until such declaration has been terminated.~~

~~(c) As used in this section:~~

~~(1) “Commercial vehicle” has the same meaning as provided in K.S.A. 8-2,128, and amendments thereto; and~~

~~(2) “motor carrier” means any driver operating a commercial motor vehicle and any person that holds a certificate of convenience and necessity, a certificate of public service or a private carrier permit from the state corporation commission, or is required to register motor carrier equipment pursuant to 49 U.S.C. § 14504a.~~

~~Sec. 3. K.S.A. 2013 Supp. 8-1911 and 66-1344 are hereby repealed.~~

~~Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.~~

Approved April 17, 2014.

Published in the *Kansas Register* April 24, 2014.

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## CHAPTER 75

## Substitute for HOUSE BILL No. 2223

AN ACT concerning alcoholic beverages; relating to homemade fermented beverages; amending K.S.A. 2013 Supp. 41-104, 41-308b, 41-308d and 41-311 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 41-104 is hereby amended to read as follows: 41-104. No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, except that nothing contained in this act shall prevent:

(a) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except that the provisions of K.S.A. 41-407, and amendments thereto, shall be applicable to all persons;

(b) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker ~~and~~ the maker's family, *guests and judges at a contest or competition of such beverages, provided, the maker receives no compensation for producing such beverages or for allowing the consumption thereof;*

(c) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;

(d) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;

(e) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;

(f) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church;

(g) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following: (1) The consumer must be at least 21 years of age; (2) the consumer must purchase the wine while physically present on the premises of the wine manufacturer; (3) the wine must be for the consumer's personal consumption and not for resale; and (4) the consumer shall comply with the provisions of K.S.A. 41-407, and amendments thereto, by payment of all applicable taxes within such time after

purchase of the wine as prescribed by rules and regulations adopted by the secretary;

(h) the serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq., and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto; or

(i) the serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or owner's agent at an event sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance.

(j) *For purposes of subsection (b), the term "guest" means a natural person who is known to the host and receives a personal invitation to an event conducted by the host. The term "guest" shall not mean a natural person who receives an invitation to an event conducted by the host when such invitation has been made available to the general public.*

Sec. 2. K.S.A. 2013 Supp. 41-308b is hereby amended to read as follows: 41-308b. (a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than ~~15,000~~ 30,000 barrels of domestic beer during the ~~license~~ calendar year and the storage thereof;

(2) the sale to beer distributors of beer, manufactured by the licensee;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of beer manufactured by the licensee;

(4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of beer manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act; and

(6) if the licensee is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microbrewery licensee, the director may issue not to exceed one microbrewery packaging and warehousing facility license to the microbrewery licensee. A microbrewery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microbrewery to the licensed premises of the microbrewery packaging and warehousing facility, of beer manufactured by the licensee, for the purpose of packaging or storage, or both; and

(2) the transfer, from the licensed premises of the microbrewery packaging and warehousing facility to the licensed premises of the microbrewery, of beer manufactured by the licensee; or

(3) the removal from the licensed premises of the microbrewery packaging and warehousing facility of beer manufactured by the licensee for the purpose of delivery to a licensed beer wholesaler.

(c) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(d) The director may issue to the Kansas state fair or any bona fide group of brewers a permit to import into this state small quantities of beer. Such beer shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such beer shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of beer to be imported, the quantity to be imported, the tasting programs for which the beer is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of beer pursuant to this subsection and the conduct of tasting programs for which such beer is imported.

(e) A microbrewery license or microbrewery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(f) No microbrewery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21

years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(g) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

Sec. 3. K.S.A. 2013 Supp. 41-308d is hereby amended to read as follows: 41-308d. (a) Notwithstanding any other provisions of the Kansas liquor control act to the contrary, any person or entity who is licensed to sell alcoholic liquor in the original package at retail may conduct wine, beer and distilled spirit tastings on the licensed premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, as follows:

(1) Wine, beer and spirits for the tastings shall come from the inventory of the licensee. Except as provided by paragraph (2), a person other than the licensee or the licensee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(2) The holder of a supplier's permit *or Kansas farm winery license* or such permit holder's *or licensee's* agent or employee may participate in and conduct product tastings of alcoholic beverages at a retail licensee's premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting. Any alcoholic beverage tasted under this subsection must be purchased from the retailer on whose premises the tasting is held. The retailer may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the supplier, *farm winery licensee* ~~or its~~ *the supplier's or licensee's* agent to withdraw or purchase an alcoholic beverage from the holder of a distributor's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

(3) No charge of any sort may be made for a sample serving.

(4) A person may be served more than one sample. Samples may not be served to a minor. No samples may be removed from the licensed premises.

(5) The act of providing samples to consumers shall be exempt from the requirement of holding a Kansas food service dealer license from the department of agriculture under the provisions of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(b) Nothing in this section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

(c) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(d) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(e) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 4. K.S.A. 2013 Supp. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) ~~Who has not been~~ *is not* a citizen of the United States ~~for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;~~

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license;

(13) whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act; or

(14) who does not provide any data or information required by K.S.A. 2013 Supp. 41-311b, and amendments thereto.

(b) No retailer's license shall be issued to:

(1) A person who is not a resident of this state;

(2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) a person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act, except that the spouse of an applicant for a retailer's license may own and hold a farm winery license, microbrewery license, or both, if the spouse does not hold a retailer's license issued under this act;

(4) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(5) a copartnership, unless all of the copartners are qualified to obtain a license;

(6) a corporation; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation

would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state;

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application; or

(6) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license, microdistillery license or farm winery license shall be issued to a:

(1) Person who is not a resident of this state;

(2) person who has not been a resident of this state for at least one year immediately preceding the date of application;

(3) person who has a beneficial interest in a manufacturer or distributor licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto;

(4) person, copartnership or association which has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act;

(5) copartnership, unless all of the copartners are qualified to obtain a license;

(6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2013 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority,

control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

Sec. 5. K.S.A. 2013 Supp. 41-104, 41-308b, 41-308d and 41-311 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 17, 2014.

Published in the *Kansas Register* April 24, 2014.

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## CHAPTER 76

Substitute for HOUSE BILL No. 2442

AN ACT concerning crimes, punishment and criminal procedure; relating to the uniform act regulating traffic; criminal penalties for fleeing and eluding; sentencing; amending K.S.A. 2013 Supp. 8-1568 and 21-6804 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 8-1568 is hereby amended to read as follows: 8-1568. (a) (1) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the

vehicle to a stop, shall be guilty as provided by subsection (c)(1), ~~(2) or (3)~~.

(2) Any driver of a motor vehicle who willfully otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), ~~(2) or (3)~~.

(3) It shall be an affirmative defense to any prosecution under ~~paragraph (1) of this subsection (a)(1)~~ that the driver's conduct in violation of such paragraph was caused by such driver's reasonable belief that the vehicle or bicycle pursuing such driver's vehicle is not a police vehicle or police bicycle.

(b) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, and who: (1) Commits any of the following during a police pursuit: (A) Fails to stop for a police road block; (B) drives around tire deflating devices placed by a police officer; (C) engages in reckless driving as defined by K.S.A. 8-1566, and amendments thereto; (D) is involved in any motor vehicle accident or intentionally causes damage to property; or (E) commits five or more moving violations; or

(2) is attempting to elude capture for the commission of any felony, shall be guilty as provided in subsection ~~(c)(4)~~ (c)(2).

(c) (1) Violation of subsection (a), upon a:

(A) First conviction is a class B nonperson misdemeanor;

~~(2) Violation of subsection (a), upon a (B) second conviction is a class A nonperson misdemeanor; or~~

~~(3) Violation of subsection (a), upon a (C) third or subsequent conviction is a severity level 9, person felony.~~

~~(4)(2)~~ Violation of subsection (b) is a severity level 9, person felony.

(d) The signal given by the police officer may be by hand, voice, emergency light or siren:

(1) If the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or

(2) if the officer giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer's badge of office at the time the signal is given.

(e) For the purpose of this section:

(1) "Conviction" means a final conviction without regard *to* whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equiv-

alent to a conviction. *For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section it is irrelevant whether an offense occurred before or after conviction for a previous offense.*

(2) “Appropriately marked” official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle.

(f) The division of vehicles of the department of revenue shall promote public awareness of the provisions of this section when persons apply for or renew such person’s driver’s license.

Sec. 2. K.S.A. 2013 Supp. 21-6804 is hereby amended to read as follows: 21-6804. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

Category ↓	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5 4

LEGEND
Presumptive Probation
County Jail
Presumptive Imprisonment

(b) Sentences expressed in the sentencing guidelines grid for non-drug crimes represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:

(A) Prison sentence;

(B) maximum potential reduction to such sentence as a result of good time; and

(C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the:

(A) Prison sentence; and

(B) duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).

(g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of subsection (d) of K.S.A. 2013 Supp. 21-5412, and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i) (1) The sentence for the violation of the felony provision of K.S.A. 2013 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, subsection (b)(3) of K.S.A. 2013 Supp. 21-5414, subsections (b)(3) and (b)(4) of K.S.A. 2013 Supp. 21-5823, K.S.A. 2013 Supp. 21-6412 and K.S.A. 2013 Supp. 21-6416, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 2013 Supp. 21-6807, and amendments thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 2013 Supp. 21-6807, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 2013 Supp. 21-5823, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 2013 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, subsection (b)(3) of K.S.A. 2013 Supp. 21-5414, subsections (b)(3) and (b)(4) of K.S.A. 2013 Supp. 21-5823, K.S.A. 2013 Supp. 21-6412 and K.S.A. 2013 Supp. 21-6416, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 2013 Supp. 8-1025 or K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:

(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(A)(i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(B)(i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) (1) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

(A) The commission of one or more person felonies; or

(B) the commission of felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; and

(C) its members have a common name or common identifying sign or symbol; and

(D) its members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of subsection (a)(1) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2013 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715, prior to its repeal, 21-3716,

prior to its repeal, subsection (a)(1) or (a)(2) of K.S.A. 2013 Supp. 21-5807, or subsection (b) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or subsection (a)(2) of K.S.A. 2013 Supp. 21-5913, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in subsection (q).

(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A. 2013 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of subsection (b) of K.S.A. 21-3705, prior to its repeal, or of criminal deprivation of property, as defined in K.S.A. 2013 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) The sentence for a felony violation of theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary as defined in subsection (a) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary as defined in subsection (a) of K.S.A. 2013 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2013 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of burglary as defined in subsection (a) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2013 Supp. 21-5807, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of subsection (f)(1) of K.S.A. 2013 Supp. 21-6824, and amendments thereto, shall apply to a defendant sentenced under this subsection. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) The sentence for a felony violation of theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2013 Supp. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in subsection (a) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2013 Supp. 21-5807, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the

applicable period of postrelease supervision. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(q) As used in this section, an “optional nonprison sentence” is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of subsection (c)(2) of K.S.A. 2013 Supp. 21-5413, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(s) The sentence for a violation of K.S.A. 2013 Supp. 21-5512, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(t) (1) If the trier of fact makes a finding that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months’ imprisonment.

(2) The sentence imposed pursuant to subsection (t)(1) shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) As used in this subsection, “ballistic resistant material” means: (A) Any commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and (B) any homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.

(u) The sentence for a violation of K.S.A. 2013 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2013 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2013 Supp.

21-6107, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(v) *The sentence for a third or subsequent violation of K.S.A. 8-1568, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.*

Sec. 3. K.S.A. 2013 Supp. 8-1568 and 21-6804 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 17, 2014.

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## CHAPTER 77

Substitute for HOUSE BILL No. 2452

AN ACT concerning motor vehicles; relating to distinctive license plates; providing for the donate life, disabled veterans, rotary international, armed forces and Kansas horse council license plates; motorcycles; amending K.S.A. 8-161 and K.S.A. 2013 Supp. 8-1,141 and repealing the existing sections.

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

New Section 1. (a) On and after January 1, 2015, any owner or lessee of one or more passenger vehicles, trucks registered for a gross weight of 20,000 pounds or less or motorcycles, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one donate life license plate for each such passenger vehicle, truck or motorcycle. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by midwest transplant network or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The board of directors of midwest transplant network may authorize the use of their donate life logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support midwest transplant network. Any motor vehicle owner or lessee annually may apply to midwest transplant network for the use of such logo. Upon annual application and payment to either: (1) Midwest transplant network in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each license plate to be issued, midwest transplant network shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization state-

ment, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by midwest transplant network. Application for registration of a passenger vehicle, truck or motorcycle and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer donate life license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by midwest transplant network. If such logo use authorization statement is not presented at the time of registration or faxed by midwest transplant network, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Midwest transplant network shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call midwest transplant network for information concerning the application process or the status of their license plate application.

(h) Midwest transplant network, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the donate life license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use roy-

alty payment amount, plate number and vehicle type to midwest transplant network and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the midwest transplant network royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the midwest transplant network royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the midwest transplant network royalty fund to the appropriate designee of midwest transplant network shall be made on a monthly basis.

Sec. 2. K.S.A. 8-161 is hereby amended to read as follows: 8-161. (a) Any disabled veteran as defined in K.S.A. 8-160, and amendments thereto, who resides in Kansas and who makes application to the director of vehicles on a form furnished by the director for registration of a motor vehicle that is a passenger vehicle ~~or~~, a truck with a gross weight of not more than 20,000 pounds, *or a motorcycle* and is owned or leased and used by such veteran may have such motor vehicle registered, and the director shall issue a distinctive license plate for it. Such license plate shall be issued for the same period of time as other license plates are issued. Such registration shall be made and such license plates issued free of charge to the disabled veteran. The director of vehicles shall also issue to the disabled veteran an individual identification card which must be carried by the disabled veteran when the motor vehicle being operated by the disabled veteran or used for the transportation of such disabled veteran is parked in a designated accessible parking space.

(b) Any Kansas resident who owns or leases a motor vehicle and who is responsible for the transportation of a disabled veteran or any resident disabled veteran desiring a distinctive license plate for a vehicle other than a motor vehicle owned or leased by the veteran may make application to the director of vehicles for such a license plate. Such license plate shall be issued for the same period of time as other license plates are issued. There shall be no fee for such license plates in addition to the regular registration fee.

(c) The director of vehicles shall design a special license plate to be issued as provided in this act. No registration or license plates issued under this act shall be transferable to any other person. No registration under this act shall be made until the applicant has filed with the director acceptable proof that the applicant is a disabled veteran as defined by K.S.A. 8-160, and amendments thereto, or is responsible for the trans-

portation of such veteran. Motor vehicles displaying the distinctive license plates provided for in this act shall be permitted to park in any parking space on public or private property which is clearly marked as being reserved for the use of persons with a disability or persons responsible for the transportation of a person with a disability, except a parking space on private property which is clearly marked as being reserved for the use of a specified person with a disability, or park without charge in any metered zone and shall be exempt from any time limitation imposed on parking in any zone designated for parking, during the hours in which parking is permitted in any city.

(d) Any person who willfully and falsely represents that such person has the qualifications to obtain the distinctive license plates provided for by this section, or who falsely utilizes the parking privilege accorded by this section, shall be guilty of an unclassified misdemeanor punishable by a fine of not more than \$250.

New Sec. 3. (a) On and after January 1, 2015, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one rotary international license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by rotary international or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) Rotary international may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support rotary international. Any motor vehicle owner or lessee annually may apply to rotary international for the use of such logo. Upon annual application and payment to either: (1) Rotary international in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each license plate to be issued, rotary international shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty pay-

ment established by rotary international. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer rotary international license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant either provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by rotary international. If such logo use authorization statement is not presented at the time of registration or faxed by rotary international, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Rotary international shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call rotary international for information concerning the application process or the status of their license plate application.

(h) Rotary international, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the rotary international license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to rotary international and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of the rotary international royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the rotary international royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to

vouchers approved by the state treasurer or the state treasurer's designee. Payments from the rotary international royalty fund to the appropriate designee of the rotary international shall be made on a monthly basis.

New Sec. 4. (a) On and after January 1, 2015, any owner or lessee of one or more passenger vehicles, trailers or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Kansas horse council license plate for each such passenger vehicle, trailer or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the Kansas horse council or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas horse council may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support the Kansas horse council. Any motor vehicle owner or lessee annually may apply to the Kansas horse council for the use of such logo. Upon annual application and payment to either: (1) The Kansas horse council in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each license plate to be issued, the Kansas horse council shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the Kansas horse council. Application for registration of a passenger vehicle, trailer or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer the Kansas horse council license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto.

No renewal of registration shall be made to any applicant until such applicant either provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the logo use royalty payment as established by the Kansas horse council. If such logo use authorization statement is not presented at the time of registration or faxed by the Kansas horse council, or the annual logo use royalty payment is not made to the county treasurer at the time of registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas horse council shall:

(1) Pay the initial cost of silk-screening for license plates authorized by this section; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the Kansas horse council for information concerning the application process or the status of their license plate application.

(h) The Kansas horse council, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the Kansas horse council license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, logo use royalty payment amount, plate number and vehicle type to the Kansas horse council and the state treasurer.

(j) Annual logo use royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse council royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Kansas horse council royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Kansas horse council royalty fund to the appropriate designee of the Kansas horse council shall be made on a monthly basis.

Sec. 5. K.S.A. 2013 Supp. 8-1,141 is hereby amended to read as follows: 8-1,141. (a) Any new distinctive license plate authorized for issuance on and after July 1, 1994, shall be subject to the personalized license plate fee prescribed by subsection (c) of K.S.A. 8-132, and amendments

thereto. This section shall not apply to any distinctive license plate authorized prior to July 1, 1994.

(b) The director of vehicles shall not issue any new distinctive license plate authorized for issuance on and after July 1, 1995, unless there is a guarantee of an initial issuance of at least 500 license plates.

(c) The provisions of this section shall not apply to distinctive license plates issued under the provisions of K.S.A. 8-1,145, or K.S.A. 2013 Supp. 8-177d, 8-1,163 or 8-1,166, and amendments thereto.

(d) The provisions of subsection (a), shall not apply to distinctive license plates issued under the provisions of K.S.A. 8-1,146 or 8-1,148, and amendments thereto, or K.S.A. 2013 Supp. 8-1,153, 8-1,158 or 8-1,161, and amendments thereto.

(e) The provisions of subsection (f) shall not apply to distinctive license plates issued under the provisions of K.S.A. 2013 Supp. 8-1,160, and amendments thereto, except that the division shall delay the manufacturing and issuance of such distinctive license plate until the division has received not less than 1,000 orders for such plate, including payment of the personalized license plate fee required under subsection (a). Upon certification by the director of vehicles to the director of accounts and reports that not less than 1,000 paid orders for such plate have been received, the director of accounts and reports shall transfer \$40,000 from the state highway fund to the distinctive license plate fund.

(f) (1) Any person or organization sponsoring any distinctive license plate authorized by the legislature on and after July 1, 2004, shall submit to the division of vehicles a nonrefundable amount not to exceed \$20,000, to defray the division's cost for developing such distinctive license plate.

(2) All moneys received under this subsection shall be remitted by the secretary of revenue to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the distinctive license plate fund which is hereby created in the state treasury. All moneys credited to the distinctive license plate fund shall be used by the department of revenue only for the purpose associated with the development of distinctive license plates. All expenditures from the distinctive license plate application fee fund shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of revenue.

(g) (1) Except for educational institution license plates issued under K.S.A. 8-1,142, and amendments thereto, the director of vehicles shall discontinue the issuance of any distinctive license plate authorized prior to July 1, 2004, and which is subject to the provisions of subsection (b) if:

(A) Less than 500 license plates, including annual renewals, are issued for that distinctive license plate by July 1, 2006; and

(B) less than 250 license plates, including annual renewals, are issued for that distinctive license plate during any subsequent two-year period after July 1, 2006.

(2) The director of vehicles shall discontinue the issuance of any distinctive license plate authorized on and after July 1, 2004, if:

(A) Less than 500 plates, including annual renewals, are issued for that distinctive license plate by the end of the second year of sales; and

(B) less than 250 license plates, including annual renewals, are issued for that distinctive license plate during any subsequent two-year period.

(h) An application for any distinctive license plate issued after December 31, 2012, and the corresponding royalty fee may be collected either by the county treasurer or the entity benefiting from the issuance of the distinctive license plate. Annual royalty payments collected by the county treasurers shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of a segregated royalty fund which shall be administered by the state treasurer. All expenditures from the royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the royalty fund shall be made to the entity benefiting from the issuance of the distinctive license plate on a monthly basis.

(i) *Notwithstanding any other provision of law, for any distinctive license plate, the division shall produce such distinctive license plate for a motorcycle upon request to the division by the organization sponsoring the distinctive license plate.*

(j) *In addition to any residency requirements for all distinctive license plates, any person not a resident of Kansas, serving as a member of the armed forces stationed in this state shall be eligible to apply for any distinctive license plate as if the individual was a resident of this state. Such person shall be eligible to renew the distinctive license plate registration as long as the person is still stationed in this state at the time the registration is renewed.*

Sec. 6. K.S.A. 8-161 and K.S.A. 2013 Supp. 8-1,141 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 78

Substitute for HOUSE BILL No. 2451

AN ACT concerning motor vehicles; relating to electric vehicles, registration fees; amending K.S.A. 2013 Supp. 8-143 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 8-143 is hereby amended to read as follows: 8-143. (a) All applications for the registration of motorcycles, motorized bicycles and passenger vehicles other than trucks and truck tractors, except as otherwise provided, shall be accompanied by an annual license fee as follows:

- (1) For motorized bicycles, \$11;
- (2) for motorcycles, \$16;
- (3) for passenger vehicles, other than motorcycles, used solely for the carrying of persons for pleasure or business, and for hearses and ambulances a fee of:
  - (A) For those having a gross weight of 4,500 pounds or less, \$30; and
  - (B) for those having a gross weight of more than 4,500 pounds, \$40;
- ~~(4) for each electrically propelled motor vehicle, except electrically propelled vehicles intended for the purpose of transporting any commodity, goods, merchandise, produce or freight, or passengers for hire, a fee of \$14.~~

~~(5)~~(4) Except for motor vehicles, trailers or semitrailers registered under the provisions of K.S.A. 8-1,134, and amendments thereto, the annual registration fee for each motor vehicle, trailer or semitrailer owned by any political or taxing subdivision of this state or by any agency or instrumentality of any one or more political or taxing subdivisions of this state and used exclusively for governmental purposes and not for any private or utility purposes, which is not otherwise exempt from registration, shall be \$2.

(b) (1) As used in this subsection, the term “gross weight” shall mean and include the empty weight of the truck, or combination of the truck or truck tractor and any type trailer or semitrailer, plus the maximum weight of cargo which will be transported on or with the same, except when the empty weight of a truck plus the maximum weight of cargo which will be transported thereon is 12,000 pounds or less. The term gross weight shall not include: The weight of any travel trailer propelled thereby which is being used for private recreational purposes; or the weight of any vehicle or combination of vehicles for which wrecker or towing service, as defined in K.S.A. 66-1329, and amendments thereto, is to be provided by a wrecker or tow truck, as defined in K.S.A. 66-1329, and amendments thereto. Such wrecker or tow truck shall be registered for the empty weight of such vehicle fully equipped for the recovery or towing of vehicles. The gross weight license fees hereinafter prescribed

shall only apply to the truck or truck tractor used as the propelling unit for the cargo and vehicle propelled, either as a single vehicle or combination of vehicles. On application for the registration of a truck or truck tractor, the owner thereof shall declare as a part of such application the maximum gross weight the owner desires to be applicable to such vehicle, which declared gross weight in no event shall be in excess of the limitations described by K.S.A. 8-1908 and 8-1909, and amendments thereto, for such vehicle or combination of vehicles of which it will be a part. All applications for the registration of trucks or truck tractors, except as otherwise provided herein, shall be accompanied by an annual license fee as follows:

(A) Prior to January 1, 2013:

For a gross weight of 12,000 lbs. or less .....	\$40
For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs. ....	102
For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs. ....	132
For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs. ....	197
For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs. ....	312
For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs. ....	312
For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs. ....	375
For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs. ....	475
For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs. ....	605
For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs. ....	805
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs. ....	1,010
For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs. ....	1,210
For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs. ....	1,535
For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs. ....	1,735
For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs. ....	1,935

(B) On January 1, 2013, through December 31, 2013:

For a gross weight of 12,000 lbs. or less .....	\$40
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For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs. ....	152
For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs. ....	182
For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs. ....	247
For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs. ....	362
For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs. ....	362
For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs. ....	425
For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs. ....	525
For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs. ....	655
For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs. ....	855
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs. ....	1,095
For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs. ....	1,295
For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs. ....	1,620
For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs. ....	1,820
For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs. ....	2,020
(C) On January 1, 2014:	
For a gross weight of 12,000 lbs. or less .....	\$40
For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs. ....	202
For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs. ....	232
For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs. ....	297
For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs. ....	412
For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs. ....	412
For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs. ....	475
For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs. ....	575

For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs. ....	705
For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs. ....	905
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs. ....	1,145
For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs. ....	1,345
For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs. ....	1,670
For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs. ....	1,870
For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs. ....	2,070

(2) If the applicant for registration of any truck or truck tractor for a gross weight of more than 12,000 pounds is the state of Kansas or any political or taxing subdivision or agency of the state, except a city or county, whose truck or truck tractor is not otherwise entitled to the \$2 license fee or otherwise exempt from all fees, such vehicle may be licensed for a fee in accordance with the schedule hereinafter prescribed for local trucks or truck tractors.

(3) If the applicant for registration of any truck or truck tractor for a gross weight of more than 12,000 pounds shall under oath state in writing on a form prescribed and furnished by the director of vehicles that the applicant does not expect to operate it more than 6,000 miles in the calendar year for which the applicant seeks registration, and that if the applicant shall operate it more than 6,000 miles during such registration year such applicant will pay an additional fee equal to the fee required by the schedule under paragraph (1), less the amount of the fee paid at time of registration, such vehicle may be licensed for a fee in accordance with the schedule prescribed for local trucks or truck tractors. Whenever a truck or truck tractor is registered on a local truck or truck tractor fee basis a tab or marker shall be issued in connection with the regular license plate, which tab or marker shall be attached or affixed to and displayed with the regular license plate and the failure to have the same attached, affixed or displayed shall be subject to the same penalties as provided by law for the failure to display the regular license plate; and the secretary of revenue may adopt rules and regulations requiring the owners of trucks and truck tractors so registered on a local truck or truck tractor fee basis to keep such records and make such reports of mileage of such vehicles as the secretary of revenue shall deem proper.

(4) A transporter delivering vehicles not the transporter’s own by the driveaway method where such vehicles are being driven, towed, or transported singly, or by the saddlemount, towbar, or fullmount methods, or

by any lawful combination thereof, may apply for license plates which may be transferred from one such vehicle or combination to another for each delivery without further registration, and the annual license fee for such license plate shall be as follows:

(A) Prior to January 1, 2013:

For the first such set of license plates .....	\$44
For each additional such set of license plates .....	18

(B) On January 1, 2013, through December 31, 2013:

For the first such set of license plates .....	\$54
For each additional such set of license plates .....	28

(C) On January 1, 2014:

For the first such set of license plates .....	\$64
For each additional such set of license plates .....	38

(5) A truck or truck tractor registered for a gross weight of more than 12,000 pounds, which is operated wholly within the corporate limits of a city or village or within a radius of 25 miles beyond the corporate limits, shall be classified as a local truck except that in no event shall such vehicles operated as contract or common carriers outside a radius of three miles beyond the corporate limits of the city or village in which such vehicles were based when registered and licensed be considered local trucks or truck tractors. The secretary of revenue is hereby authorized and directed to adopt rules and regulations prescribing a procedure for the issuance of permits by the division of vehicles whereby owners of local trucks or truck tractors may operate any such vehicle, empty, beyond the radius hereinbefore prescribed, when such operation is solely for the purpose of having such vehicle repaired, painted or serviced or for adding additional equipment thereto. The annual license fee for a local truck or truck tractor, except as otherwise provided herein, shall be as follows:

(A) Prior to January 1, 2013:

For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs. ....	\$62
For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs. ....	102
For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs. ....	132
For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs. ....	177
For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs. ....	177
For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs. ....	215
For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs. ....	245

For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs. ....	315
For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs. ....	415
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs. ....	480
For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs. ....	580
For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs. ....	760
For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs. ....	890
For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs. ....	1,010
(B) On January 1, 2013, through December 31, 2013:	
For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs. ....	\$112
For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs. ....	152
For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs. ....	182
For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs. ....	227
For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs. ....	227
For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs. ....	265
For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs. ....	295
For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs. ....	365
For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs. ....	465
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs. ....	565
For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs. ....	665
For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs. ....	845
For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs. ....	975
For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs. ....	1,095

(C) On January 1, 2014:

For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs. ....	\$162
For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs. ....	202
For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs. ....	232
For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs. ....	277
For a gross weight of more than 26,000 lbs. and not more than 30,000 lbs. ....	277
For a gross weight of more than 30,000 lbs. and not more than 36,000 lbs. ....	315
For a gross weight of more than 36,000 lbs. and not more than 42,000 lbs. ....	345
For a gross weight of more than 42,000 lbs. and not more than 48,000 lbs. ....	415
For a gross weight of more than 48,000 lbs. and not more than 54,000 lbs. ....	515
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs. ....	615
For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs. ....	715
For a gross weight of more than 66,000 lbs. and not more than 74,000 lbs. ....	895
For a gross weight of more than 74,000 lbs. and not more than 80,000 lbs. ....	1,025
For a gross weight of more than 80,000 lbs. and not more than 85,500 lbs. ....	1,145

(6) A truck or truck tractor registered for a gross weight of more than 12,000 pounds, which is owned by a person engaged in farming and which truck or truck tractor is used by such owner to transport agricultural products produced by such owner or commodities purchased by such owner for use on the farm owned or rented by the owner of such farm truck or truck tractor, shall be classified as a farm truck or truck tractor and the annual license fee for such farm truck shall be as follows:

(A) Prior to January 1, 2013:

For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs. ....	\$37
For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs. ....	42
For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs. ....	52

For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs. ....	72
For a gross weight of more than 26,000 lbs. and not more than 36,000 lbs. ....	72
For a gross weight of more than 36,000 lbs. and not more than 54,000 lbs. ....	75
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs. ....	190
For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs. ....	370
For a gross weight of more than 66,000 lbs. ....	610
(B) On January 1, 2013, through December 31, 2013:	
For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs. ....	\$47
For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs. ....	92
For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs. ....	102
For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs. ....	122
For a gross weight of more than 26,000 lbs. and not more than 36,000 lbs. ....	122
For a gross weight of more than 36,000 lbs. and not more than 54,000 lbs. ....	125
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs. ....	275
For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs. ....	455
For a gross weight of more than 66,000 lbs. ....	695
(C) On January 1, 2014:	
For a gross weight of more than 12,000 lbs. and not more than 16,000 lbs. ....	\$57
For a gross weight of more than 16,000 lbs. and not more than 20,000 lbs. ....	142
For a gross weight of more than 20,000 lbs. and not more than 24,000 lbs. ....	152
For a gross weight of more than 24,000 lbs. and not more than 26,000 lbs. ....	172
For a gross weight of more than 26,000 lbs. and not more than 36,000 lbs. ....	172
For a gross weight of more than 36,000 lbs. and not more than 54,000 lbs. ....	175
For a gross weight of more than 54,000 lbs. and not more than 60,000 lbs. ....	325

For a gross weight of more than 60,000 lbs. and not more than 66,000 lbs. ....	505
For a gross weight of more than 66,000 lbs. ....	745

A vehicle licensed as a farm truck or truck tractor may be used by the owner thereof to transport, for charity and without compensation of any kind, commodities for religious or educational institutions. A truck which is licensed as a farm truck may also be used for the transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, black top, dirt or fill material to a township road maintenance or construction site of the township in which the owner of such truck resides. Any applicant for registration of any farm truck or farm truck tractor used in combination with a trailer or semitrailer shall register the farm truck or farm truck tractor for a gross weight which shall include the empty weight of the truck or truck tractor or of the combination of any truck or truck tractor and any type of trailer or semitrailer, plus the maximum weight of cargo which will be transported on or with the same. The applicant for registration of any farm truck or farm truck tractor used to transport a gross weight of more than 54,000 pounds shall durably letter on the side of the motor vehicle the words "farm vehicle—not for hire." If an applicant for registration of any farm truck or farm truck tractor operates such vehicle for any use or purpose not authorized for a farm truck or farm truck tractor, such applicant shall pay an additional fee equal to the fee required for the registration of all trucks or truck tractors not registered as local, 6,000-mile or farm truck or farm truck tractor motor vehicles, less the amount of the fee paid at time of registration. Nothing in this or the preceding paragraph shall authorize a gross weight of a vehicle or combination of vehicles on the national system of interstate and defense highways greater than permitted by laws of the United States congress.

(7) Except as hereinafter provided, the annual license fee for each local urban transit bus used in local urban transit operations exempted under the provisions of subsection (a) of K.S.A. 66-1,109, and amendments thereto, shall be based on the passenger seating capacity of the bus and shall be as follows:

(A) Prior to January 1, 2013:

8 or more, but less than 31 passengers .....	\$15
31 or more, but less than 40 passengers .....	30
More than 39 passengers .....	60

(B) On January 1, 2013, through December 31, 2013:

8 or more, but less than 31 passengers .....	\$25
31 or more, but less than 40 passengers .....	40
More than 39 passengers .....	70

(C) On January 1, 2014:

8 or more, but less than 31 passengers .....	\$35
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31 or more, but less than 40 passengers .....	50
More than 39 passengers .....	80

The annual license fee for each local urban transit bus which is owned by a metropolitan transit authority established pursuant to articles 25 and 28 of chapter 12 or pursuant to article 31 of chapter 13 of the Kansas Statutes Annotated, *and amendments thereto*, shall be \$2.

(8) For licensing purposes, station wagons with a carrying capacity of less than 10 passengers shall be subject to registration fees based on the weight of the vehicles, as provided in subsection (a). Station wagons with a carrying capacity of 10 or more passengers shall be subject to the truck classifications and license fees as provided.

(9) For any trailer, semitrailer, travel trailer or pole trailer the annual license fee shall be as follows:

(A) (i) Until January 1, 2013, for any such vehicle with a gross weight of more than 12,000 pounds the annual fee shall be \$35;

(ii) on January 1, 2013, for any such vehicle with a gross weight of more than 12,000 pounds but less than 54,000 pounds the annual fee shall be \$45, on January 1, 2014, \$55;

(B) any such vehicle grossing more than 8,000 pounds but not over 12,000 pounds, the annual fee shall be \$25, on January 1, 2013, \$35, on January 1, 2014, \$45;

(C) for any such vehicle grossing more than 2,000 pounds but not over 8,000 pounds, the annual fee shall be \$15, on January 1, 2013, \$25, on January 1, 2014, \$35.

Any such vehicle having a gross weight of 2,000 pounds or less may, at the owner's option, be registered and the fee for such registration shall be as provided in paragraph (C).

Any trailer, semitrailer or travel trailer owned by a nonresident of this state and based in another state, which is properly registered and licensed in the state of residence of the owner or in the state where based, may be operated in this state without being registered or licensed in this state if the truck or truck tractor propelling the same is properly registered and licensed in this state, or is registered and licensed in some other state and is entitled to reciprocal privileges of operation in this state, but this provision shall not apply to any trailer or semitrailer owned by a nonresident of this state when such trailer or semitrailer is owned by a person who has proportionately registered and licensed a fleet of vehicles under the provisions of K.S.A. 8-1,101 to 8-1,123, inclusive, and amendments thereto, or under the terms of any reciprocal or proration agreement made pursuant thereto.

At the option of the owner, any trailer, semitrailer or pole trailer, with a gross weight of more than 12,000 pounds, may be issued a multi-year registration for a five-year period upon payment of the appropriate registration fee. The fee for a five-year registration of such trailer shall be

five times the annual fee for such trailer. If the annual registration fee is increased during the multi-year registration period, the owner of the trailer with such multi-year registration shall be subject to the amount of the increase of the annual registration fee for the remaining calendar years of such multi-year registration. When the owner of any trailer, semitrailer or pole trailer registered under this multi-year provision transfers or assigns the title, or interest thereto, the registration of such trailer shall expire. The owner shall remove the license plate from such trailer and forward the license plate to the division of vehicles or may have such license plate assigned to another trailer, semitrailer or pole trailer upon the payment of fees required by law. Any owner of a trailer, semitrailer or pole trailer where the multi-year registration fee has been paid and the trailer is sold, junked, repossessed, foreclosed by a mechanic's lien or title transferred by operation of law, and the registration thereon is not going to be transferred to another trailer, may secure a refund for the registration fee for the remaining calendar years by making application to the division of vehicles on a form and in the manner prescribed by the director of vehicles. The secretary of revenue may adopt such rules and regulations necessary to implement the multi-year registration of such trailers, semitrailers and pole trailers.

(c) Any truck or truck tractor having a gross weight of 4,000 pounds or over, using solid tires, shall pay a license fee of double the amount herein charged. The annual fees herein provided for trucks, truck tractors and trailers not subject to K.S.A. 8-134a, and amendments thereto, shall be due January 1 of each year and payable on or before the last day of February in each year. If the fee is not paid by such date a penalty of \$1 shall be added to the fee charged herein for each month or fraction thereof and until December 31 of each registration year. The annual registration fee for all passenger vehicles and vehicles subject to K.S.A. 8-134a, and amendments thereto, shall be due on or before the last day of the month in which the registration plate expires and shall be due for other vehicles as provided by K.S.A. 8-134, and amendments thereto. If the registration fee is not paid by such date a penalty of \$1 shall be added to the fee charged herein for each month or fraction thereof until such registration fee is paid. Members of the armed forces of the United States shall be permitted to apply for registration at any time and be subject to registration fee, less penalties, applicable at the time the application is made. If any motorcycle, motorized bicycle, trailer, semitrailer, travel trailer, or pole trailer is either purchased or acquired after the anniversary or renewal date in any registration year there shall immediately become due and payable a registration fee as follows: If purchased or acquired between the anniversary or renewal date of any registration year and the first six months of such registration year, the annual fee hereinbefore provided; if purchased or acquired during the last six months of any registration year, 50% of such annual fee. If any truck or truck tractor, except

trucks subject to K.S.A. 8-134a, and amendments thereto, is purchased or acquired prior to April 1 of any year the fee shall be the annual fee hereinbefore provided, but if such truck or truck tractor is purchased or acquired after the end of March of any year, the license fee for such year shall be reduced  $\frac{1}{12}$  for each calendar month which has elapsed since the beginning of the year. If any truck registered for a gross weight of 12,000 pounds or less or passenger vehicle is purchased or acquired and less than 12 months remain in the registration period, the fee shall be  $\frac{1}{12}$  of the annual fee for each calendar month remaining in the registration period.

(d) The owner of any motorcycle, motorized bicycle, passenger vehicle, truck, truck tractor, trailer, semitrailer, or electrically propelled vehicle who fails to pay the registration fee or fees herein provided on the date when the same become due and payable shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a penalty in the sum of \$1 for each month or fraction thereof during which such fee has remained unpaid after it became due and payable; and in addition thereto shall be subject to such other punishment as is provided in this act. Upon the transfer of motorcycles, motorized bicycles, passenger vehicles, trailers, semitrailers, trucks or truck tractors, on which registration fees have been paid for the year in which the transfer is made, either: (1) To a corporation by one or more persons, solely in exchange for stock or securities in such corporation; or (2) by one corporation to another corporation when all of the assets of such corporation are transferred to the other corporation, then in either case (1) or case (2) the corporation shall be exempt from the payment of registration fees on such vehicles for the year in which such transfer is made. Applications for transfer or registration shall be accompanied by a fee of \$1.50. When the registration of a vehicle has expired at midnight on the last day of any registration year, and such vehicle is not thereafter operated upon the highways, any application for renewal of registration made subsequent to the anniversary or renewal date of any registration year following the expiration of such registration and for succeeding registration years in which such vehicle has not been registered shall be accompanied by an affidavit of nonoperation and nonuse, and such application for renewal or registration shall be received by the division of vehicles upon payment of the proper fees for the current registration year and without penalty.

(e) Any nonresident of Kansas purchasing a vehicle from a Kansas resident and desiring to secure registration on the vehicle in the state of such person's residence may make application in the office of any county treasurer for a sixty-day temporary registration. The county treasurer upon presentation of evidence of ownership in the applicant and evidence the sales tax has been paid, if due, shall charge and collect a fee of \$3 for each sixty-day temporary license and issue a sticker or paper registration as may be determined by the director of vehicles, and the registration so issued shall be valid for a period of 60 days from the date of issuance.

(f) Any owner of any motor vehicle which is subject to taxation under the provisions of article 51 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, or any other truck or truck tractor where the annual registration fee has been paid and the vehicle is sold, junked, repossessed, foreclosed by a mechanic's lien or title transferred by operation of law, and the registration thereon is not going to be transferred to another vehicle may secure a refund for the registration fee for the remaining portion of the year by making application to the division of vehicles on a form and in the manner prescribed by the director of vehicles, accompanied by all license plates and attachments issued in connection therewith. If the owner of the registration becomes deceased and the vehicle is not going to be used on the highway, and title is not being currently transferred, the proper representative of the estate shall be entitled to the refund. The refund shall be made only for the period of time remaining in the registration year from the date of completion and filing of the application with and delivery of the license plate and attachments to the division of vehicles. Where the registration is secured under a quarterly payment annual registration fee, as provided for in K.S.A. 8-143a, and amendments thereto, such refund shall be made on the quarterly fee paid and unused and all remaining quarterly payments shall be canceled. Any truck or truck tractor having the registration fee paid on quarterly payment basis, all quarterly payments due or a fraction of quarterly payment due shall be paid before title may be transferred, except that in case of death, the filing of the application and returning of the license plate and attachment shall cancel the remaining annual payments due. Whenever a truck or truck tractor, where the registration is secured on a quarterly payment of the annual registration, the one repossessing the truck or truck tractor, or foreclosing by a mechanic's lien, or securing title by court order, the mortgagor or the assigns of the mortgagor, or the one securing title may pay the balance due on date of application for title, but the payments for the remaining portion of the year shall not be canceled unless application is made and the license plate and attachments are surrendered. Nothing in this subsection shall apply when registration is secured under the provisions of K.S.A. 8-1,101 to 8-1,123, inclusive, and amendments thereto. Notwithstanding any of the foregoing provisions of this section, no refund shall be made under the provisions of this section where the amount thereof does not exceed \$5. The division of vehicles shall furnish such blank forms as may be required under the provisions of this subsection as it deems necessary to be completed by the applicant. Whenever a registration which has been secured on a quarterly basis shall be canceled as provided in this subsection, the division of vehicles shall notify the county treasurer issuing the original registration of such cancellation so that the county treasurer may, and the county treasurer shall cancel the registration of such vehicle in the county trea-

suror's office and release any lien issued in connection with such registration.

(g) Every owner of a travel trailer designed for or intended to be moved upon any highway in this state shall, before the same is so moved, apply for and obtain the proper registration thereof as provided in this act, except when such unit is permitted to be moved under the special provisions relating to secured parties, manufacturers, dealers and non-residents contained in this act. At the time of registering any travel trailer for the purpose of moving any such vehicle upon any highway in this state, the owner thereof shall indicate on the registration form whether or not such vehicle is being moved permanently to a location outside of the county in which such vehicle is being registered. No such vehicle which the owner thereof intends to move to a permanent location outside the boundaries of such county shall be registered for movement on the highways of this state until all taxes levied against such vehicle have been paid. A copy of such registration form shall be sent to the county clerk or assessor of the county to which such vehicle is being moved. When such travel trailer is used for living quarters and not operated on the highways, the owner shall be exempt from the license fees as provided in subsection (b)(9) so long as such travel trailer is not operated on the highway.

Sec. 2. K.S.A. 2013 Supp. 8-143 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after January 1, 2015, and its publication in the statute book.

Approved April 17, 2014.

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## CHAPTER 79

Senate Substitute for HOUSE BILL No. 2298

AN ACT concerning the uniform controlled substances act; relating to substances included in schedules I, III and IV; amending K.S.A. 2013 Supp. 65-4105, 65-4109 and 65-4111 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 65-4105 is hereby amended to read as follows: 65-4105. (a) The controlled substances listed in this section are included in schedule I and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically

excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide)	9815
(2) Acetylmethadol	9601
(3) Allylprodine	9602
(4) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM)	9603
(5) Alphameprodine	9604
(6) Alphamethadol	9605
(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenylethyl)-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine)	9814
(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide)	9832
(9) Benzethidine	9606
(10) Betacetylmethadol	9607
(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide)	9830
(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide)	9831
(13) Betameprodine	9608
(14) Betamethadol	9609
(15) Betaprodine	9611
(16) Clonitazene	9612
(17) Dextromoramide	9613
(18) Diampromide	9615
(19) Diethylthiambutene	9616
(20) Difenoxin	9168
(21) Dimenoxadol	9617
(22) Dimepheptanol	9618
(23) Dimethylthiambutene	9619
(24) Dioxaphetyl butyrate	9621
(25) Dipipanone	9622
(26) Ethylmethylthiambutene	9623
(27) Etonitazene	9624
(28) Etoxidine	9625
(29) Furethidine	9626
(30) Hydroxypethidine	9627
(31) Ketobemidone	9628
(32) Levomoramide	9629
(33) Levophenacylmorphan	9631

(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide) ..... 9813

(35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl)-4-piperidyl]-N-phenylpropanamide) ..... 9833

(36) Morpheridine ..... 9632

(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine) ..... 9661

(38) Noracymethadol ..... 9633

(39) Norlevorphanol ..... 9634

(40) Normethadone ..... 9635

(41) Norpipanone ..... 9636

(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide) ..... 9812

(43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine) ... 9663

(44) Phenadoxone ..... 9637

(45) Phenampromide ..... 9638

(46) Phenomorphan ..... 9647

(47) Phenoperidine ..... 9641

(48) Piritramide ..... 9642

(49) Proheptazine ..... 9643

(50) Properidine ..... 9644

(51) Propiram ..... 9649

(52) Racemoramide ..... 9645

(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide) ..... 9835

(54) Tilidine ..... 9750

(55) Trimeperidine ..... 9646

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine ..... 9319

(2) Acetyldihydrocodeine ..... 9051

(3) Benzylmorphine ..... 9052

(4) Codeine methylbromide ..... 9070

(5) Codeine-N-Oxide ..... 9053

(6) Cyprenorphine ..... 9054

(7) Desomorphine ..... 9055

(8) Dihydromorphine ..... 9145

(9) Drotebanol ..... 9335

(10) Etorphine (except hydrochloride salt) ..... 9056

(11) Heroin ..... 9200

(12) Hydromorphanol ..... 9301

(13) Methyl-desorphine ..... 9302

(14) Methyl-dihydromorphine ..... 9304

(15) Morphine methylbromide ..... 9305  
 (16) Morphine methylsulfonate ..... 9306  
 (17) Morphine-N-Oxide ..... 9307  
 (18) Myrophine ..... 9308  
 (19) Nicocodeine ..... 9309  
 (20) Nicomorphine ..... 9312  
 (21) Normorphine ..... 9313  
 (22) Pholcodine ..... 9314  
 (23) Thebacon ..... 9315

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) 4-bromo-2,5-dimethoxy-amphetamine ..... 7391  
 Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.  
 (2) 2,5-dimethoxyamphetamine ..... 7396  
 Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.  
 (3) 4-methoxyamphetamine ..... 7411  
 Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA.  
 (4) 5-methoxy-3,4-methylenedioxy-amphetamine ..... 7401  
 (5) 4-methyl-2,5-dimethoxy-amphetamine ..... 7395  
 Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP".  
 (6) 3,4-methylenedioxy amphetamine ..... 7400  
 (7) 3,4-methylenedioxymethamphetamine (MDMA) ..... 7405  
 (8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, and MDEA) ..... 7404  
 (9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4-(methylenedioxy) phenethylamine, and N-hydroxy MDA) ..... 7402  
 (10) 3,4,5-trimethoxy amphetamine ..... 7390  
 (11) Bufotenine ..... 7433  
 Some trade or other names: 3-(Beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine.  
 (12) Diethyltryptamine ..... 7434  
 Some trade or other names: N,N-Diethyltryptamine; DET.  
 (13) Dimethyltryptamine ..... 7435

- Some trade or other names: DMT.
- (14) Ibogaine ..... 7260  
 Some trade or other names: 7-Ethyl-6,6  
 Beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-  
 pyrido[1',2':1,2]  
 azepino [5,4-b]indole; Tabernanthe iboga
- (15) Lysergic acid diethylamide ..... 7315
- (16) Marihuana ..... 7360
- (17) Mescaline ..... 7381
- (18) Parahexyl ..... 7374  
 Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-  
 tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl.
- (19) Peyote ..... 7415  
 Meaning all parts of the plant presently classified botani-  
 cally as *Lophophora williamsii* Lemaire, whether growing  
 or not, the seeds thereof, any extract from any part of such  
 plant, and every compound, manufacture, salts, derivative,  
 mixture or preparation of such plant, its seeds or extracts.
- (20) N-ethyl-3-piperidyl benzilate ..... 7482
- (21) N-methyl-3-piperidyl benzilate ..... 7484
- (22) Psilocybin ..... 7437
- (23) Psilocyn ..... 7438
- (24) Ethylamine analog of phencyclidine ..... 7455  
 Some trade or other names: N-ethyl-1-phenyl-cyclo-  
 hexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-  
 phenylcyclohexyl)ethylamine; cyclohexamine; PCE.
- (25) Pyrrolidine analog of phencyclidine ..... 7458  
 Some trade or other names: 1-(1-phenylcyclohexyl)-  
 pyrrolidine; PCPy; PHP.
- (26) Thiophene analog of phencyclidine ..... 7470  
 Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-  
 piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP.
- (27) 1-[1-(2-thienyl)-cyclohexyl] pyrrolidine ..... 7473  
 Some other names: TCPy.
- (28) 2,5-dimethoxy-4-ethylamphetamine ..... 7399  
 Some trade or other names: DOET.
- (29) *Salvia divinorum* or *salvinorum* A; all parts of the plant pres-  
 ently classified botanically as *salvia divinorum*, whether  
 growing or not, the seeds thereof, any extract from any part  
 of such plant, and every compound, manufacture, salts, de-  
 rivative, mixture or preparation of such plant, its seeds or  
 extracts.

- (30) *Datura stramonium*, commonly known as gypsum weed or jimson weed; all parts of the plant presently classified botanically as *datura stramonium*, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.
- (31) N-benzylpiperazine ..... 7493  
Some trade or other names: BZP.
- (32) 1-(3-[trifluoromethylphenyl])piperazine  
Some trade or other names: TFMPP.
- (33) 4-Bromo-2,5-dimethoxyphenethylamine ..... 7392
- (34) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7),  
its optical isomers, salts and salts of optical isomers ..... 7348
- (35) Alpha-methyltryptamine (other name: AMT) ..... 7432
- (36) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT), its  
isomers, salts and salts of isomers ..... 7439
- (37) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E) ..... 7509
- (38) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D) ..... 7508
- (39) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C) ..... 7519
- (40) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I) ..... 7518
- (41) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-  
2) ..... 7385
- (42) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine  
(2C-T-4) ..... 7532
- (43) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H) ..... 7517
- (44) 2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine (2C-N) ..... 7521
- (45) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P)... 7524
- (46) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT) ..... 7431  
Some trade or other names: 5-methoxy-3-[2-(  
dimethylamino)ethyl]indole.
- (47) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-  
methoxybenzyl)ethanamine ..... 7538  
Some trade or other names: 25I-NBOMe; 2C-I-NBOMe;  
25I; Cimbi-5.
- (48) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-  
methoxybenzyl)ethanamine ..... 7537  
Some trade or other names: 25C-NBOMe; 2C-C-NBOMe;  
25C; Cimbi-82.
- (49) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-  
methoxybenzyl)ethanamine ..... 7536  
Some trade or other names: 25B-NBOMe; 2C-B-NBOMe;  
25B; Cimbi-36.
- (50) 2-(2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine  
Some trade or other names: 25H-NBOMe.

(e) Any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Mecloqualone ..... 2572
- (2) Methaqualone ..... 2565
- (3) Gamma hydroxybutyric acid

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- (1) Fenethylamine ..... 1503
- (2) N-ethylamphetamine ..... 1475
- (3) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine) ..... 1590
- (4) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine) ..... 1480
- (5) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-amino propiophenone, 2-amino propiophenone and norphedrone) ..... 1235
- (6) Substituted cathinones

Any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

- (A) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
- (B) by substitution at the 3-position with an acyclic alkyl substituent;
- (C) by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
- (D) by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(g) Any material, compound, mixture or preparation which contains any quantity of the following substances:

- (1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers ..... 9818

- (2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers ..... 9834
- (3) Aminorex (some other names: Aminoxaphen 2-amino-5-phenyl-2-oxazoline or 4,5-dihydro-5-phenyl-2-oxazolamine, its salts, optical isomers and salts of optical isomers) ..... 1585
- (4) Alpha-ethyltryptamine, its optical isomers, salts and salts of isomers ..... 7249  
Some other names: etryptamine, alpha-methyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole.

(h) Any of the following cannabinoids, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Tetrahydrocannabinols ..... 7370  
Meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers Delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
- (2) Naphthoylindoles  
Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.
- (3) Naphthylmethylindoles  
Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

- (4) Naphthoypyrroles  
Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.
- (5) Naphthylmethylindenes  
Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.
- (6) Phenylacetylindoles  
Any compound containing a 3-phenylacetylindeole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.
- (7) Cyclohexylphenols  
Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent.
- (8) Benzoylindoles  
Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.
- (9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone. Some trade or other names: WIN 55,212-2.

- (10) 9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol  
Some trade or other names: HU-210, HU-211.
- (11) *Tetramethylcyclopropanoylindoles*  
Any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranlylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent.
- (12) *Indole-3-carboxylate esters*  
Any compound containing a 1H-indole-3-carboxylate ester structure with the ester oxygen bearing a naphthyl, quinolinyl, isquinolinyl or adamantyl group and substitution at the 1 position of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, N-methyl-2-piperidinylmethyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not further substituted on the naphthyl, quinolinyl, isquinolinyl, adamantyl or benzyl groups to any extent.
- (13) *Indazole-3-carboxamides*  
Any compound containing a 1H-indazole-3-carboxamide structure with substitution at the nitrogen of the carboxamide by a naphthyl, quinolinyl, isquinolinyl, adamantyl or 1-amino-1-oxoalkan-2-yl group and substitution at the 1 position of the indazole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, N-methyl-2-piperidinylmethyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indazole ring to any extent and whether or not further substituted on the naphthyl, quinolinyl, isquinolinyl, adamantyl, 1-amino-1-oxoalkan-2-yl, or benzyl groups to any extent.

Sec. 2. K.S.A. 2013 Supp. 65-4109 is hereby amended to read as follows: 65-4109. (a) The controlled substances listed in this section are included in schedule III and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Any compound, mixture or preparation containing:
  - (A) Amobarbital ..... 2126
  - (B) Secobarbital ..... 2316
  - (C) Pentobarbital ..... 2271
 or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.
- (2) Any suppository dosage form containing:
  - (A) Amobarbital ..... 2126
  - (B) Secobarbital ..... 2316
  - (C) Pentobarbital ..... 2271
 or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.
- (3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules ..... 2100
- (4) Chlorhexadol ..... 2510
- (5) Lysergic acid ..... 7300
- (6) Lysergic acid amide ..... 7310
- (7) Methyprylon ..... 2575
- (8) Sulfondiethylmethane ..... 2600
- (9) Sulfonethylmethane ..... 2605
- (10) Sulfonmethane ..... 2610
- (11) Tiletamine and zolazepam or any salt thereof ..... 7295  
 Some trade or other names for a tiletamine-zolazepam combination product: Telazol  
 Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone  
 Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one, flupyrazapon
- (12) Ketamine, its salts, isomers, and salts of isomers ..... 7285  
 Some other names for ketamine: (-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone
- (13) Gamma hydroxybutyric acid, any salt, hydroxybutyric compound, derivative or preparation of gamma hydroxybutyric acid contained in a drug product for which an application has been approved under section 505 of the federal food, drug and cosmetic act

(14) Embutramide ..... 2020

(c) Nalorphine ..... 9400

(d) Any material, compound, mixture or preparation containing any of the following narcotic drugs or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium ..... 9803

(2) not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts ..... 9804

(3) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium ... 9805

(4) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts ..... 9806

(5) not more than 1.8 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts ..... 9807

(6) not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts ..... 9808

(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts ..... 9809

(8) not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts 9810

(9) any material, compound, mixture or preparation containing any of the following narcotic drugs or their salts, as set forth below:

(A) Buprenorphine ..... 9064

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quan-

tity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substance listed in schedule II, which compounds, mixtures or preparations were listed on August 25, 1971, as excepted compounds under section 308.32 of title 21 of the code of federal regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same, except that it contains a lesser quantity of controlled substances ..... 1405
- (2) Benzphetamine ..... 1228
- (3) Chlorphentermine ..... 1645
- (4) Chlorlertamine ..... 1647
- (5) Phendimetrazine ..... 1615
- (f) Anabolic steroids ..... 4000

“Anabolic steroid” means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) Boldenone
- (2) chlorotestosterone (4-chlortestosterone)
- (3) clostebol
- (4) dehydrochlormethyltestosterone
- (5) dihydrotestosterone (4-dihydrotestosterone)
- (6) drostanolone
- (7) ethylestrenol
- (8) fluoxymesterone
- (9) formebulone (formebolone)
- (10) mesterolone
- (11) methandienone
- (12) methandranone
- (13) methandriol
- (14) methandrostenolone
- (15) *methasterone (2,17-dimethyl-5-androstan-17-ol-3-one)*
- ~~(15)~~(16) methenolone
- ~~(16)~~(17) methyltestosterone
- ~~(17)~~(18) mibolerone
- ~~(18)~~(19) nandrolone
- ~~(19)~~(20) norethandrolone

- ~~(20)~~(21) oxandrolone
- ~~(21)~~(22) oxymesterone
- ~~(22)~~(23) oxymetholone
- (24) *prostanazol (17-hydroxy-5-androstano[3,2-c]pyrazole)*
- ~~(23)~~(25) stanolone
- ~~(24)~~(26) stanozolol
- ~~(25)~~(27) testolactone
- ~~(26)~~(28) testosterone
- ~~(27)~~(29) trenbolone
- ~~(28)~~(30) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

(A) Except as provided in (B), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States' secretary of health and human services for such administration.

(B) If any person prescribes, dispenses or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this subsection (f).

(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product ..... 7369  
 Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro -6-6-9-trimethyl-3-pentyl-6H-dibenzo(b,d)pyran-1-0l, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(h) The board may except by rule any compound, mixture or preparation containing any stimulant or depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

Sec. 3. K.S.A. 2013 Supp. 65-4111 is hereby amended to read as follows: 65-4111. (a) The controlled substances listed in this section are

included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Alprazolam .....	2882
(2) Barbital .....	2145
(3) Bromazepam .....	2748
(4) Camazepam .....	2749
(5) Carisoprodol .....	8192
(6) Chloral betaine .....	2460
(7) Chloral hydrate .....	2465
(8) Chlordiazepoxide .....	2744
(9) Clobazam .....	2751
(10) Clonazepam .....	2737
(11) Clorazepate .....	2768
(12) Clotiazepam .....	2752
(13) Cloxazolam .....	2753
(14) Delorazepam .....	2754
(15) Diazepam .....	2765
(16) Dichloralphenazone .....	2467
(17) Estazolam .....	2756
(18) Ethchlorvynol .....	2540
(19) Ethinamate .....	2545
(20) Ethyl loflazepate .....	2758
(21) Fludiazepam .....	2759
(22) Flunitrazepam .....	2763
(23) Flurazepam .....	2767
(24) Fospropofol .....	2138
(25) Halazepam .....	2762
(26) Haloxazolam .....	2771
(27) Ketazolam .....	2772
(28) Loprazolam .....	2773
(29) Lorazepam .....	2885
(30) Lormetazepam .....	2774
(31) Mebutamate .....	2800
(32) Medazepam .....	2836
(33) Meprobamate .....	2820
(34) Methohexital .....	2264
(35) Methylphenobarbital (mephobarbital) .....	2250

(36) Midazolam ..... 2884  
 (37) Nimetazepam ..... 2837  
 (38) Nitrazepam ..... 2834  
 (39) Nordiazepam ..... 2838  
 (40) Oxazepam ..... 2835  
 (41) Oxazolam ..... 2839  
 (42) Paraldehyde ..... 2585  
 (43) Petrichloral ..... 2591  
 (44) Phenobarbital ..... 2285  
 (45) Pinazepam ..... 2883  
 (46) Prazepam ..... 2764  
 (47) Quazepam ..... 2881  
 (48) Temazepam ..... 2925  
 (49) Tetrazepam ..... 2886  
 (50) Triazolam ..... 2887  
 (51) Zolpidem ..... 2783  
 (52) Zaleplon ..... 2781  
 (53) Zopiclone ..... 2784

(c) Any material, compound, mixture, or preparation which contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible. The provisions of this subsection (c) shall expire on the date fenfluramine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(d) *Any material, compound, mixture or preparation which contains any quantity of lorcaserin (1625), including its salts, isomers and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible (21 U.S.C. § 812; 21 code of federal regulations 1308.14).*

~~(d)~~(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine) ..... 1230  
 (2) Diethylpropion ..... 1610  
 (3) Fencamfamin ..... 1760  
 (4) Fenproporex ..... 1575  
 (5) Mazindol ..... 1605  
 (6) Mefenorex ..... 1580

- (7) Pemoline (including organometallic complexes and chelates thereof) ..... 1530
- (8) Phentermine ..... 1640

The provisions of this subsection ~~(d)(8)~~ (e)(8) shall expire on the date phentermine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

- (9) Pipradrol ..... 1750
- (10) SPA((-)-1-dimethylamino-1, 2-diphenylethane) ..... 1635
- (11) Sibutramine ..... 1675
- (12) Mondafinil ..... 1680

~~(e)~~(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following, including salts thereof:

- (1) Pentazocine ..... 9709
- (2) Butorphanol (including its optical isomers) ..... 9720

~~(f)~~(g) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit ..... 9167
- (2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propion-oxybutane) ..... 9278

~~(g)~~(h) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

~~(h)~~(i) The board may except by rule and regulation any compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Sec. 4. K.S.A. 2013 Supp. 65-4105, 65-4109 and 65-4111 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 80

HOUSE BILL No. 2552  
(Amended by Chapter 117)

AN ACT concerning the Kansas medical assistance program; amending K.S.A. 2013 Supp. 39-709 and repealing the existing section.

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

New Section 1. (a) Any contract between the Kansas medical assistance program and any managed care organization serving the state of Kansas shall require the processing and full payment of the allowed amount or processing and denial by the managed care organization of all clean claims within 30 days after receipt of the clean claim, and the processing and full payment of the allowed amount or processing and denial by the managed care organization of all claims within 90 days after receipt of the claim. The contract shall also include a late payment provision that requires the managed care organization to pay interest to the provider at the rate of 12% per annum for each month that the managed care organization has neither processed and fully paid the allowed amount nor processed and denied a submitted claim or clean claim after the time limits set forth in this section. The Kansas medical assistance program shall also require managed care organizations to include a provision outlining the provider's rights under this section in the managed care organization's contracts with providers. A provider that has a claim that remains unpaid by a managed care organization after the time limits set forth in this section may bring a direct cause of action against the managed care organization for the interest provided for in this section in addition to the amount of the unpaid claim.

(b) For the purposes of this section, the terms "claim" and "clean claim" shall be assigned the same meanings as provided by 42 C.F.R. § 447.45(b).

(c) The secretary of health and environment shall adopt rules and regulations to carry out the provisions of this section, and amendments thereto.

Sec. 2. K.S.A. 2013 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or

recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for aid for families with dependent children, for food stamp assistance and for any other assistance provided through the Kansas department for children and families under which federal moneys are expended, the secretary for children and families shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) *Assistance to families with dependent children.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as aid to families with dependent children. Where husband and wife are living together both shall register for work under the program requirements for aid to families with dependent children in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.

(c) *Aid to families with dependent children; assignment of support rights and limited power of attorney.* By applying for or receiving aid to families with dependent children such applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. In any case in which an order for child support has been established and the legal custodian and obligee under the order surrenders physical custody of the child to a caretaker relative without obtaining a modification of legal custody and support rights on behalf of the child are assigned pursuant to this section, the surrender of physical custody and the assignment shall transfer, by operation of law, the child's support rights under the order to the secretary on behalf of the state. Such assignment shall be of all accrued, present or future rights to support of the child surrendered to the caretaker relative. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant, recipient or obligee. By applying for or receiving aid to families with dependent children, or by surrendering physical custody of

a child to a caretaker relative who is an applicant or recipient of such assistance on the child's behalf, the applicant, recipient or obligee is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full.

(d) *Eligibility requirements for general assistance, the cost of which is not shared by the federal government.* (1) General assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d).

(A) To qualify for general assistance in any form a needy person must have insufficient income or resources to provide a reasonable subsistence compatible with decency and health and, except as provided for transitional assistance, be a member of a family in which a minor child or a pregnant woman resides or be unable to engage in employment. The secretary shall adopt rules and regulations prescribing criteria for establishing when a minor child may be considered to be living with a family and whether a person is able to engage in employment, including such factors as age or physical or mental condition. Eligibility for general assistance, other than transitional assistance, is limited to families in which a minor child or a pregnant woman resides or to an adult or family in which all legally responsible family members are unable to engage in employment. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary in determining need of any applicant for or recipient of general assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of general assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or a minor stepchild if the stepchild is living with such individual. In determining the need of an individual, the secretary may provide for income and resource exemptions.

(B) To qualify for general assistance in any form a needy person must be a citizen of the United States or an alien lawfully admitted to the United States and must be residing in the state of Kansas.

(2) General assistance in the form of transitional assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d), but who do not meet the criteria prescribed by rules and regulations of

the secretary relating to inability to engage in employment or are not a member of a family in which a minor or a pregnant woman resides.

(3) In addition to the other requirements prescribed under this subsection (d), the secretary shall adopt rules and regulations which establish community work experience program requirements for eligibility for the receipt of general assistance in any form and which establish penalties to be imposed when a work assignment under a community work experience program requirement is not completed without good cause. The secretary may adopt rules and regulations establishing exemptions from any such community work experience program requirements. A first time failure to complete such a work assignment requirement shall result in ineligibility to receive general assistance for a period fixed by such rules and regulations of not more than three calendar months. A subsequent failure to complete such a work assignment requirement shall result in a period fixed by such rules and regulations of ineligibility of not more than six calendar months.

(4) If any person is found guilty of the crime of theft under the provisions of K.S.A. 39-720, and amendments thereto, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the provisions of K.S.A. 39-720, and amendments thereto, or the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction. If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* (1) When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an

alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to subsection (c) of K.S.A. 16-303, and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient. *Medical assistance eligibility for receipt of benefits under the title XIX of the social security act, commonly known as medicaid, shall not be expanded, as provided for in the patient protection and affordable care act, public law 111-148, 124 stat. 119, and the health care and education reconciliation act of 2010, public law 111-152, 124 stat. 1029, unless the legislature expressly consents to, and approves of, the expansion of medicaid services by an act of the legislature.*

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, “public assistance” includes, but is not limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided

by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

(g) *Medical assistance; assignment of rights to medical support and*

*limited power of attorney; recovery from estates of deceased recipients.*

(1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303 of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to subsection (d) of K.S.A. 39-756, and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance. Amounts collected pursuant to the assignment of rights to payment for medical care from a third party shall also be retained by the secretary for repayment of the unreimbursed portion of assistance.

(2) The amount of any medical assistance paid after June 30, 1992, under the provisions of subsection (e) is (A) a claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or, if there is no estate, the estate of the surviving spouse, if any, shall be charged for such medical assistance paid to either or both, and (B) a claim against any funds of such recipient or spouse in any account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and amendments thereto. There shall be no recovery of medical assistance correctly paid to or on behalf of an individual under subsection (e) except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers

of real or personal property by recipients of medical assistance without adequate consideration are voidable and may be set aside. Except where there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under subsection (e) is a claim against the estate in any guardianship or conservatorship proceeding. The monetary value of any benefits received by the recipient of such medical assistance under long-term care insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall be a credit against the amount of the claim provided for such medical assistance under this subsection (g). The secretary is authorized to enforce each claim provided for under this subsection (g). The secretary shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary from claims under this subsection (g) shall be deposited in the social welfare fund. The secretary may adopt rules and regulations for the implementation and administration of the medical assistance recovery program under this subsection (g).

(3) By applying for or receiving medical assistance under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, such individual or such individual's agent, fiduciary, guardian, conservator, representative payee or other person acting on behalf of the individual consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim is limited to the individual's probatable estate as defined by applicable law; and

(B) if an individual receives any medical assistance on or after July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) The secretary of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county

where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien.

(A) After the death of a recipient of medical assistance, the secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by such recipient.

(B) The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home or other medical institution shall constitute a determination by the department of health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the department of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recipient is discharged, returns home and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous period of at least 90 days shall be completed prior to dissolution of the lien.

(5) The lien filed by the secretary of health and environment or the secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

- (A) After the death of the surviving spouse of the recipient;
- (B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
- (C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
- (D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before

the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

(A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary or the secretary's designee;

(B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure; or

(C) the value of the real property is consumed by the lien, at which time the secretary or the secretary's designee may force the sale for the real property to satisfy the lien.

(7) If the secretary for aging and disability services or the secretary of health and environment, or both, or such secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the real property is located within 10 years from the date of the filing of the lien, then the lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(8) Within seven days of receipt of notice by the secretary for children and families or the secretary's designee of the death of a recipient of medical assistance under this subsection, the secretary for children and families or the secretary's designee shall give notice of such recipient's death to the secretary of health and environment or the secretary's designee.

(h) *Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney.* In any case in which the secretary for children and families pays for the expenses of care and custody of a child pursuant to K.S.A. 2013 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of nego-

tiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a felony conviction or charge shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

(j) If the applicant or recipient of aid to families with dependent children is a mother of the dependent child, as a condition of the mother's eligibility for aid to families with dependent children the mother shall identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any recipient of aid to families with dependent children who fails to cooperate with requirements relating to child support enforcement under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations which penalty shall progress to ineligibility for the family after three months of noncooperation.

(k) By applying for or receiving child care benefits or food stamps, the applicant or recipient shall be deemed to have assigned, pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the state only accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food stamps, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary

pursuant to this subsection shall cooperate in establishing and enforcing support obligations to the same extent required of applicants for or recipients of aid to families with dependent children.

(1) (1) A program of drug screening for applicants for cash assistance as a condition of eligibility for cash assistance and persons receiving cash assistance as a condition of continued receipt of cash assistance shall be established, subject to applicable federal law, by the secretary for children and families on or before January 1, 2014. Under such program of drug screening, the secretary for children and families shall order a drug screening of an applicant for or a recipient of cash assistance at any time when reasonable suspicion exists that such applicant for or recipient of cash assistance is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, an applicant's or recipient's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the applicant or recipient indicating unlawful use of a controlled substance or controlled substance analog.

(2) Any applicant for or recipient of cash assistance whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any applicant for or recipient of cash assistance who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such applicant or recipient who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(3) Any applicant for or recipient of cash assistance who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary for children and families, secretary of labor or secretary of commerce, and a job skills program approved by the secretary for children and families, secretary of labor or secretary of commerce. Subject to applicable federal laws, any applicant for or recipient of cash assistance who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive cash assistance until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of cash assistance may be subject to periodic drug screening, as determined by the secretary for children and families.

Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from cash assistance for a period of 12 months, or until such recipient of cash assistance completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be terminated from cash assistance, subject to applicable federal law.

(4) If an applicant for or recipient of cash assistance is ineligible for or terminated from cash assistance as a result of a positive test for unlawful use of a controlled substance or controlled substance analog, and such applicant for or recipient of cash assistance is the parent or legal guardian of a minor child, an appropriate protective payee shall be designated to receive cash assistance on behalf of such child. Such parent or legal guardian of the minor child may choose to designate an individual to receive cash assistance for such parent's or legal guardian's minor child, as approved by the secretary for children and families. Prior to the designated individual receiving any cash assistance, the secretary for children and families shall review whether reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog.

(A) In addition, any individual designated to receive cash assistance on behalf of an eligible minor child shall be subject to drug screening at any time when reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, the designated individual's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the designated individual indicating unlawful use of a controlled substance or controlled substance analog.

(B) Any designated individual whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any designated individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such designated individual who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(C) Upon any positive test for unlawful use of a controlled substance or controlled substance analog, the designated individual shall not receive cash assistance on behalf of the parent's or legal guardian's minor child, and another designated individual shall be selected by the secretary for children and families to receive cash assistance on behalf of such parent's or legal guardian's minor child.

(5) If a person has been convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall thereby become forever ineligible to receive any cash assistance under this subsection unless such conviction is the person's first conviction. First-time offenders convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall become ineligible to receive cash assistance for five years from the date of conviction.

(6) Except for hearings before the Kansas department for children and families or, the results of any drug screening administered as part of the drug screening program authorized by this subsection shall be confidential and shall not be disclosed publicly.

(7) The secretary for children and families may adopt such rules and regulations as are necessary to carry out the provisions of this subsection.

(8) Any authority granted to the secretary for children and families under this subsection shall be in addition to any other penalties prescribed by law.

(9) As used in this subsection:

(A) "Cash assistance" means cash assistance provided to individuals under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant to such statutes.

(B) "Controlled substance" means the same as in K.S.A. 2013 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) "Controlled substance analog" means the same as in K.S.A. 2013 Supp. 21-5701, and amendments thereto.

Sec. 3. K.S.A. 2013 Supp. 39-709 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 81

HOUSE BILL No. 2057  
(Amended by Chapter 117)

AN ACT concerning taxation; relating to property taxation, sale or abandonment of personal property before taxes paid, liens, appointment of interim appraisers, homesteads destroyed or substantially destroyed by natural disaster, certain agreements by board of county commissioners; privilege tax, deductions; income tax, credits, modification to Kansas adjusted gross income; liquified petroleum motor fuel law, rates of taxation; amending K.S.A. 79-2109 and 79-3492 and K.S.A. 2013 Supp. 19-430, 79-1613, 79-1703, 79-32,117, 79-32,143a, 79-32,195, 79-3495 and 79-34,141 and repealing the existing sections; also repealing K.S.A. 79-2110.

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

Section 1. K.S.A. 2013 Supp. 19-430 is hereby amended to read as follows: 19-430. (a) On July 1, 1993, and on July 1 of each fourth year thereafter, the board of county commissioners *or governing body of any unified government* of each county shall by resolution appoint a county appraiser for such county who shall serve for a term of four years ~~and until a successor is appointed~~ *expiring on June 30 of the fourth year thereafter*. No person shall be appointed or reappointed to or serve as county appraiser in any county under the provisions of this act unless such person shall have at least three years of mass appraisal experience and be qualified by the director of property valuation as an eligible Kansas appraiser under the provisions of this act. Whenever a vacancy shall occur in the office of county appraiser the board of county commissioners *or governing body of any unified government* shall appoint an eligible Kansas appraiser to fill such vacancy for the unexpired term ~~and until a successor is appointed~~. The person holding the office of county or district appraiser or performing the duties thereof on the effective date of this act shall continue to hold such office and perform such duties until a county appraiser is appointed under the provisions of this act. No person shall be appointed to the office of county or district appraiser or to fill a vacancy therein unless such person is currently: (1) A certified general real property appraiser pursuant to article 41 of chapter 58 of the Kansas Statutes Annotated, and amendments thereto; (2) a registered mass appraiser pursuant to rules and regulations adopted by the secretary of revenue; or (3) holding a valid residential evaluation specialist or certified assessment evaluation designation from the International Association of Assessing Officers. Notwithstanding the foregoing provision, ~~any person who holds the office of county or district appraiser on the effective date of this act and who is not eligible for reappointment pursuant to this section shall be eligible for reappointment to such office or appointment as a county or district appraiser in another county for a term expiring on July 1, 1999, and if any such person qualifies for an original appointment or reappointment prior to July 1, 1999, such person may be reappointed for a full term, and any other person who has at least three years of mass appraisal~~

~~experience and is qualified by the director of property valuation as an eligible Kansas appraiser shall be eligible for appointment to such office for a term expiring on July 1, 1999, and if any such person qualifies for an original appointment prior to July 1, 1999, such person may be reappointed for a full term~~ *the board of county commissioners or governing body of any unified government may appoint an interim county appraiser, subject to the approval of the director of property valuation, for a period not to exceed six months to fill a vacancy in the office of county appraiser pending the appointment of an eligible county appraiser under the provisions of this act.*

(b) The secretary of revenue shall adopt rules and regulations prior to October 1, 1997, necessary to establish qualifications for the designation of a registered mass appraiser.

New Sec. 2. Whenever personal property in this state is abandoned or repossessed after it is assessed and before the taxes are paid, the owner or lessee of any real property upon which such property was situated at the time of abandonment or repossession shall not be liable for such taxes where lawful title to such property is acquired by such landowner or lessee within 12 months of the time such property is deemed abandoned or within 12 months of the time legal proceedings are commenced to effect a repossession.

Sec. 3. K.S.A. 2013 Supp. 79-1613 is hereby amended to read as follows: 79-1613. (a) As used in this section:

(1) “Destroyed or substantially destroyed” means damage of any origin sustained by a homestead as the direct result of: (A) An earthquake, flood, tornado, fire, or storm; or ~~other~~ (B) an event or occurrence which the governor of the state of Kansas has declared a disaster, whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

(2) “Homestead” means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. “Owned” includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(3) “Public or private buyout” means any buyout from a local, state or federal governmental entity or any non-governmental entity, including, but not limited to, an individual, foundation, trust, association, corporation, limited liability company or partnership.

(b) The owner of any homestead listed and assessed for property

taxation purposes which was destroyed or substantially destroyed due to an earthquake, flood, tornado, fire, storm, or other event or occurrence which the governor of the state of Kansas has declared a disaster may make application to the board of county commissioners of the county in which such property is located for the abatement of property taxes levied upon such homestead or for a credit against property taxes payable by such owner, as permitted by this section.

(1) If such homestead has been so destroyed or substantially destroyed after January 1 of a particular year but prior to August 15 of such year, the owner of such homestead may make application to such board of county commissioners for the abatement of property taxes levied upon such homestead, or if such property taxes have been paid or partially paid, may make application for the granting of a credit against property taxes payable by such owner during any or all of the next succeeding three taxable years.

(2) If such homestead has been so destroyed or substantially destroyed on or after August 15 of a particular year but prior to January 1 of the next succeeding year, the owner of such homestead may make application to such board of county commissioners for the granting of a credit against property taxes payable by such owner during any or all of the next succeeding three taxable years.

(c) An application for relief as permitted by subsection (b) may be made for abatement of property taxes assessed but not yet paid, or for a grant of a credit for assessed property taxes paid or for both, as the case may be, and may be made on or before December 20 of the year next succeeding the year for which such taxes have been assessed.

(d) Upon receipt of any such application, subject to budgetary restraints of the county or taxing subdivision arising from the event or occurrence declared a disaster by the governor, the board of county commissioners shall inquire into and make findings regarding, among other things, whether the property is a homestead, as defined in subsection (a), whether the homestead was destroyed or substantially destroyed, as defined in subsection (a) and the assessed valuation thereof. If it is determined that an owner of such homestead is entitled to an abatement of all or any portion of the property taxes levied against such homestead or is entitled to a credit against property taxes payable by such owner in any or all of the next succeeding three years, the board may issue an order so providing.

~~(e) The board shall not grant an application for relief by an owner who is a recipient of funds from either a public or private buyout or insurance proceeds, which, as the case may be, are of an amount equal to or greater than 50% of the entire pre-disaster value of the homestead which was destroyed or substantially destroyed.~~

~~(f) The county clerk and county treasurer shall in each case of abatement or credit correct their records in accordance therewith and the~~

county clerk shall notify the governing body of any taxing district affected thereby.

~~(g)~~(f) The provisions of this section shall be applicable to all taxable years commencing after December 31, 2011, and ~~ending before January 1, 2014~~ all taxable years thereafter.

Sec. 4. K.S.A. 2013 Supp. 79-1703 is hereby amended to read as follows: 79-1703. (a) Except as provided in subsection (b) or as otherwise provided by law, no board of county commissioners or other officer of any county shall have power to release, discharge, ~~or remit~~ ~~or commute~~ any portion of the taxes assessed or levied against any person or property within their respective jurisdictions for any reason whatever. Any taxes so discharged, released, ~~or remitted~~ ~~or commuted~~ may be recovered by civil action from the members of the board of county commissioners or such other officer and the sureties of their official bonds at the suit of the attorney general, the county attorney, or of any citizen of the county or the board of education of any school district a part of the territory of which is in such county, as the case may be, and when collected shall be paid into the county treasury to be properly apportioned and paid to the county, municipalities, school districts and other taxing subdivisions entitled thereto. *Nothing in this subsection shall be construed to prohibit a board of county commissioners from entering into an agreement whereby the board agrees to pay the full amount of the taxes assessed or levied against any person or property on behalf of such person, as long as such amount is properly apportioned and paid to the county, municipalities, school districts and other taxing subdivisions entitled to a portion of such amount.*

(b) In the event a person, partnership or corporation has failed to pay any portion of the taxes assessed or levied against its property located within any county and such person, partnership or corporation is a debtor in an action filed pursuant to the United States bankruptcy code, the county commissioners of any such county may compromise, assign, transfer or otherwise settle such tax claim in such fashion as the commissioners deem to be in the best interest of the state and all taxing subdivisions affected thereby, subject to approval by the state court of tax appeals; except that, the state and each other taxing subdivision affected by any such settlement shall receive the same proportional share of its respective tax claim. The state court of tax appeals shall respond to such settlement request within 30 days from the date of receiving such request or such request shall be deemed approved.

Sec. 5. K.S.A. 79-2109 is hereby amended to read as follows: 79-2109. ~~If any owner of personal property after the date as of which personal property is assessed and before the tax thereon is paid, shall sell all of a class of the same to any one person, the tax for that year shall be a lien upon the property so sold, and shall at once become due and payable,~~

~~and the county treasurer shall at once issue a tax warrant for the collection thereof, and the sheriff shall forthwith collect it as in other cases. The property so sold shall be liable in the hands of the purchaser for such tax, but in the event that a purchaser shall pay the tax or any part thereof or, if said property be seized and sold for such tax the seller thereof, shall be civilly liable to the purchaser for the amount of the taxes the purchaser has paid or the amount of taxes due on the property so seized; but if the property be sold in the ordinary course of retail trade it shall not be so liable in the hands of the purchasers.~~(a) *On and after January 1, 2015, if any owner of personal property sells or transfers such property to another after the date such property is assessed and before the tax thereon is paid, then the taxes on the personal property of such taxpayer which is being sold or transferred shall fall due immediately, and a lien shall attach to the property so sold or transferred. The lien shall be for an amount equal to the tax assessment for the year in which the sale or transfer is made and shall become due and payable immediately. The lien shall attach to the property and is not a personal debt of the purchaser or transferee. In no circumstance shall the purchaser or transferee be liable for any taxes owed by the seller or transferor prior to the year in which the sale or transfer occurred. Such lien shall be in preference to all other claims against such property. The county treasurer, after receiving knowledge of any such surrender or transfer, shall issue immediately a tax warrant for the collection thereof and the sheriff shall collect it as in other cases. The lien shall remain on the property and any person taking possession of the property does so subject to the lien. The one owing such tax shall be liable civilly to any person taking possession of such property for any taxes owing thereon, but the property shall be liable in the hands of the person taking possession thereof for such tax. If the property is sold in the ordinary course of retail trade it shall not be liable in the hands of the purchasers. No personal property which has been transferred in any manner after it has been assessed shall be liable for the tax in the hands of the transferee after the expiration of three years from the time such tax originally became due and payable.*

(b) *If, at the time of the sale, taxes on the personal property remain due and unpaid for any tax year or years prior to the year of the sale, then such unpaid taxes shall be a personal debt of the seller, subject to collection under K.S.A. 79-2017 or 79-2101, and amendments thereto, as the case may be. The county treasurer of the county where such personal property taxes remain due and unpaid shall update the records of the county treasurer to show that the seller or transferor is delinquent and owes personal property taxes levied against the seller or transferor for such previous year or years for the purposes of vehicle registration under K.S.A. 8-173, and amendments thereto.*

Sec. 6. K.S.A. 2013 Supp. 79-32,117 is hereby amended to read as

follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by

an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments thereto.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2013 Supp. 79-32,204, and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203, and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2013 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2013 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2013 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2013 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2013 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2013 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233

through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2013 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2013 Supp. 79-32,256, and amendments thereto.

(xviii) For taxable years commencing after December 31, 2006, the amount of any ad valorem or property taxes and assessments paid to a state other than Kansas or local government located in a state other than Kansas by a taxpayer who resides in a state other than Kansas, when the law of such state does not allow a resident of Kansas who earns income in such other state to claim a deduction for ad valorem or property taxes or assessments paid to a political subdivision of the state of Kansas in determining taxable income for income tax purposes in such other state, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xix) For all taxable years beginning after December 31, 2012, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) loss from rental real estate, royalties, partnerships, S corporations, except those with wholly owned subsidiaries subject to the Kansas privilege tax, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service.

(xx) For all taxable years beginning after December 31, 2012, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxi) For all taxable years beginning after December 31, 2012, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal

revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxii) For all taxable years beginning after December 31, 2012, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiii) For all taxable years beginning after December 31, 2012, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid for medical care of the taxpayer or the taxpayer's spouse or dependents when such expenses were paid or incurred for an abortion, or for a health benefit plan, as defined in K.S.A. 2013 Supp. 65-6731, and amendments thereto, for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2013 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xxv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2013 Supp. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2013 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as a deduction for federal income tax purposes.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition

of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. § 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249, and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2013 Supp. 74-50,201 et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. For all taxable years beginning after December 31, 2012, the amount of modification under this subsection shall exclude the portion of income or loss reported on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.

(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2013 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(xvi) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are or were members of the armed forces of the United States, including service in the Kansas army and air national guard, as a recruitment, sign up or retention bonus received by such taxpayer as an incentive to join, enlist or remain in the armed services of the United States, including service in the Kansas army and air national guard, and amounts received for repayment of educational or student loans incurred by or obligated to such taxpayer and received by such taxpayer as a result of such taxpayer's service in the armed forces of the United States, including service in the Kansas army and air national guard.

(xvii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are eligible members of the Kansas army and air national guard as a reimbursement pursuant to K.S.A. 48-281, and amendments thereto, and amounts received for death benefits pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-

tion 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and amendments thereto, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.

(xviii) For the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

(xix) Amounts received by retired employees of Washburn university as retirement and pension benefits under the university's retirement plan.

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

(xxi) *For all taxable years beginning after December 31, 2012, amounts received under either the Overland Park, Kansas police department retirement plan or the Overland Park, Kansas fire department retirement plan, both as established by the city of Overland Park, pursuant to the city's home rule authority.*

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131,

and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

Sec. 7. K.S.A. 2013 Supp. 79-32,143a is hereby amended to read as follows: 79-32,143a. (a) For taxable years beginning after December 31, 2011, a taxpayer may elect to take an expense deduction from Kansas net income before expensing or recapture allocated or apportioned to this state for the cost of the following property placed in service in this state during the taxable year: (1) Tangible property eligible for depreciation under the modified accelerated cost recovery system in section 168 of the internal revenue code, as amended, but not including residential rental property, nonresidential real property, any railroad grading or tunnel bore or any other property with an applicable recovery period in excess of 25 years as defined under section 168(c) or (g) of the internal revenue code, as amended; and (2) computer software as defined in section 197(e)(3)(B) of the internal revenue code, as amended, and as described in section 197(e)(3)(A)(i) of the internal revenue code, as amended, to which section 167 of the internal revenue code, as amended, applies. If such election is made, the amount of expense deduction for such cost shall equal the difference between the depreciable cost of such property for federal income tax purposes and the amount of bonus depreciation being claimed for such property pursuant to section 168(k) of the internal revenue code, as amended, for federal income tax purposes in such tax year, but without regard to any expense deduction being claimed for such property under section 179 of the internal revenue code, as amended, multiplied by the applicable factor, determined by using, the table provided in subsection (f), based on the method of depreciation selected pursuant to section 168(b)(1), (2), or (3) or (g) of the internal revenue code, as amended, and the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended. This election shall be made by the due date of the original return, including any extensions, and may be made only for the taxable year in which the property is placed in service, and once made, shall be irrevocable. If the section 179 expense deduction election has been made for federal income tax purposes for any asset, the applicable factor to be utilized is in the IRC § 168 (b)(1) column of the table provided in subsection (f) for the applicable recovery period of the respective assets.

(b) If the amount of expense deduction calculated pursuant to subsection (a) exceeds the taxpayer's Kansas net income before expensing or recapture allocated or apportioned to this state, such excess amount shall be treated as a Kansas net operating loss as provided in K.S.A. 79-32,143, and amendments thereto.

(c) If the property for which an expense deduction is taken pursuant to subsection (a) is subsequently sold during the applicable recovery period for such property as defined under section 168(c) of the internal

revenue code, as amended, and in a manner that would cause recapture of any previously taken expense or depreciation deductions for federal income tax purposes, or if the situs of such property is otherwise changed such that the property is relocated outside the state of Kansas during such applicable recovery period, then the expense deduction determined pursuant to subsection (a) shall be subject to recapture and treated as Kansas taxable income allocated to this state. The amount of recapture shall be the Kansas expense deduction determined pursuant to subsection (a) multiplied by a fraction, the numerator of which is the number of years remaining in the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended, after such property is sold or removed from the state including the year of such disposition, and the denominator of which is the total number of years in such applicable recovery period.

(d) The situs of tangible property for purposes of claiming and recapture of the expense deduction shall be the physical location of such property. If such property is mobile, the situs shall be the physical location of the business operations from where such property is used or based. The situs of computer software shall be apportioned to Kansas based on the fraction, the numerator of which is the number of the taxpayer's users located in Kansas of licenses for such computer software used in the active conduct of the taxpayer's business operations, and the denominator of which is the total number of the taxpayer's users of the licenses for such computer software used in the active conduct of the taxpayer's business operations everywhere.

(e) Any member of a unitary group filing a combined report may elect to take an expense deduction pursuant to subsection (a) for an investment in property made by any member of the combined group, provided that the amount calculated pursuant to subsection (a) may only be deducted from the Kansas net income before expensing or recapture allocated to or apportioned to this state by such member making the election.

(f) The following table shall be used in determining the expense deduction calculated pursuant to subsection (a):

<b>Factors</b>			
<b>IRC§168 Recover Period (year)</b>	<b>IRC§168(b)(1) Depreciation Method</b>	<b>IRC§168(b)(2) Depreciation Method</b>	<b>IRC§168(b)(3) or (g) Depreciation Method</b>
2.5	°	.077	.092
3	.075	.091	.106
3.5	°	.102	.116
4	°	.114	.129
5	.116	.135	.150
6	°	.154	.170
6.5	°	.163	.179
7	.151	.173	.190
7.5	°	.181	.199
8	°	.191	.208
8.5	°	.199	.217
9	°	.208	.226
9.5	°	.216	.235
10	.198	.224	.244
10.5	°	.232	.252
11	°	.240	.261
11.5	°	.248	.269
12	°	.256	.277
12.5	°	.263	.285
13	°	.271	.293
13.5	°	.278	.300
14	°	.285	.308
15	°	.299	.323
16	°	.313	.337
16.5	°	.319	.344
17	°	.326	.351
18	°	.339	.365
19	°	.351	.378
20	°	.363	.391
22	°	.386	.415
24	°	.408	.438
25	°	.419	.449

\*Not Applicable

(g) If a taxpayer elects to expense any investment pursuant to subsection (a), such taxpayer shall not be eligible for any tax credit, accelerated depreciation, or deduction for such investment allowed pursuant to K.S.A. 2013 Supp. 79-32,160a(e), 79-32,182b, 79-32,201, 79-32,204, 79-32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-32,227, 79-32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-32,246, 79-32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and amendments thereto.

(h) (1) For tax year 2013, ~~and all tax years thereafter~~, the deduction allowed by this section shall only be available to taxpayers subject to the

income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and used only to determine such taxpayer's corporate income tax liability.

(2) *For tax year 2014, and all tax years thereafter, the deduction allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, or the privilege tax imposed upon any national banking association, state bank, savings bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and used only to determine such taxpayer's corporate income or privilege tax liability.*

Sec. 8. K.S.A. 2013 Supp. 79-32,195 is hereby amended to read as follows: 79-32,195. As used in this act, the following words and phrases shall have the meanings ascribed to them herein: (a) "Business firm" means any business entity authorized to do business in the state of Kansas which is subject to the state income tax imposed by the provisions of the Kansas income tax act, any individual subject to the state income tax imposed by the provisions of the Kansas income tax act, any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or any insurance company paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto;

(b) "Community services" means:

(1) The conduct of activities which meet a demonstrated community need and which are designed to achieve improved educational and social services for Kansas children and their families, and which are coordinated with communities including, but not limited to, social and human services organizations that address the causes of poverty through programs and services that assist low income persons in the areas of employment, food, housing, emergency assistance and health care;

(2) crime prevention; ~~and~~

(3) health care services; *and*

(4) *youth apprenticeship and technical training.*

(c) "Crime prevention" means any nongovernmental activity which aids in the prevention of crime.

(d) "*Youth apprenticeship and technical training*" means *conduct of activities which are designed to improve the access to and quality of apprenticeship and technical training which support an emphasis on rural construction projects as well as the necessary equipment, facilities and supportive mentorship for youth apprenticeships and technical training.*

(e) "Community service organization" means any organization performing community services in Kansas and which:

(1) Has obtained a ruling from the internal revenue service of the

United States department of the treasury that such organization is exempt from income taxation under the provisions of section 501(c)(3) of the federal internal revenue code; or

(2) is incorporated in the state of Kansas or another state as a non-stock, nonprofit corporation; or

(3) has been designated as a community development corporation by the United States government under the provisions of title VII of the economic opportunity act of 1964; or

(4) is chartered by the United States congress.

~~(e)~~(f) “Contributions” shall mean and include the donation of cash, services or property other than used clothing in an amount or value of \$250 or more. Stocks and bonds contributed shall be valued at the stock market price on the date of transfer. Services contributed shall be valued at the standard billing rate for not-for-profit clients. Personal property items contributed shall be valued at the lesser of its fair market value or cost to the donor and may be inclusive of costs incurred in making the contribution, but shall not include sales tax. Contributions of real estate are allowable for credit only when title thereto is in fee simple absolute and is clear of any encumbrances. The amount of credit allowable shall be based upon the lesser of two current independent appraisals conducted by state licensed appraisers.

~~(f)~~(g) “Health care services” shall include, but not be limited to, the following: Services provided by local health departments, city, county or district hospitals, city or county nursing homes, or other residential institutions, preventive health care services offered by a community service organization including immunizations, prenatal care, the postponement of entry into nursing homes by home health care services, and community based services for persons with a disability, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, services provided by rural health clinics, integration of health care services, home health services and services provided by rural health networks, except that for taxable years commencing after December 31, 2013, health care services shall not include any service involving the performance of any abortion, as defined in K.S.A. 65-6701, and amendments thereto.

~~(g)~~(h) “Rural community” means any city having a population of fewer than 15,000 located in a county that is not part of a standard metropolitan statistical area as defined by the United States department of commerce or its successor agency. However, any such city located in a county defined as a standard metropolitan statistical area shall be deemed a rural community if a substantial number of persons in such county derive their income from agriculture and, in any county where there is only one city within the county which has a population of more than 15,000 and which classifies as a standard metropolitan statistical area, all

other cities in that county having a population of less than 15,000 shall be deemed a rural community.

Sec. 9. K.S.A. 79-3492 is hereby amended to read as follows: 79-3492.

(a) Except as otherwise provided in this act, a tax per gallon, or fraction thereof, at the rate computed as prescribed in K.S.A. 79-34,141, and amendments thereto, is hereby imposed on the LP-gas user or LP-gas dealer who places such LP-gas fuel into the fuel supply tank or tanks of any motor vehicle while such vehicle is within this state except that in those instances in which LP-gas is withdrawn from the cargo tank of a motor vehicle for the operation thereof upon the public highways of the state, the tax shall be imposed upon and measured only by that volume of LP-gas so withdrawn and used multiplied by the tax rate per gallon provided in this act.

(b) *The conversion formula to be used to convert compressed natural gas and liquefied natural gas per gallon for the tax imposed pursuant to K.S.A. 79-34,141, and amendments thereto, shall be as follows:*

(1) *For purposes of converting the energy equivalent of compressed natural gas to a gasoline gallon energy equivalent, 126.67 cubic feet or 5.66 pounds of compressed natural gas shall equal one gasoline gallon; or*

(2) *for purposes of converting the energy equivalent of liquefied natural gas to a diesel gallon energy equivalent, 6.06 pounds of liquefied natural gas shall equal one diesel gallon.*

Sec. 10. K.S.A. 2013 Supp. 79-3495 is hereby amended to read as follows: 79-3495. (a) Each LP-gas user or LP-gas dealer subject to the provisions of this act must, on or before the 25<sup>th</sup> day of each calendar month, file with the director a report, certified to be true and correct, on a form prescribed and furnished by the director, showing the total number of gallons of LP-gas placed into fuel supply tank or tanks of any motor vehicle while such vehicle is within this state during the preceding calendar month, including the number of gallons on hand at the beginning and end of each month, the number of gallons received from any and all sources supported by detailed schedules of receipts, purchases and withdrawals for sale or use, and such other information as the director may require. Each LP-gas user or LP-gas dealer at the time of filing each monthly report must pay to the director the full amount of tax due for the preceding calendar month at the rate provided for in this act.

(b) Any tax imposed under the provisions of this act not paid on or before the 25<sup>th</sup> of the month succeeding the calendar month in which the LP-gas was used shall be deemed delinquent and shall bear interest at the rate per month, or fraction thereof prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from such due date until paid, and in addition thereto there is hereby imposed upon all amounts of such tax remaining due and unpaid after such due date a penalty in the amount of 5% thereof, and such penalty shall be by the director added to and

collected as a part of such tax. If the LP-gas user or LP-gas dealer furnishes evidence to the director that the delinquency was due to causes beyond such user's or dealer's reasonable control, and if in the opinion of the director the delinquency was not the result of willful negligence of the LP-gas user or LP-gas dealer the penalty or interest or both may be waived or reduced by the director.

(c) The director, if satisfied that the enforcement of the act is not adversely affected, may exempt any LP-gas user or LP-gas dealer from the monthly reporting and payment requirements of this act and require in lieu thereof annual payment of the tax due hereunder and annual reporting on forms provided by the director.

(d) Whenever the secretary or the secretary's designee determines that the failure of the taxpayer to comply with the provisions of subsection (b) was due to reasonable causes, the secretary or the secretary's designee may waive or reduce any of the penalties and may reduce the interest rate to the underpayment rate prescribed and determined for the applicable period under section 6621 of the federal internal revenue code as in effect on January 1, 1994, upon making a record of the reasons therefor.

(e) It shall be unlawful for any LP-gas user or LP-gas dealer to use *or sell* any LP-gas within this state unless such LP-gas user or LP-gas dealer is a holder of an uncanceled, unsuspended or unrevoked license issued by the director, *unless such user has remitted the tax to a licensed LP-gas dealer*. To procure such license every applicant shall file with the director an application upon oath and in such form as the director may prescribe, setting forth the name and addresses, the kind of business, and the designation of the exact locations or places of business where LP-gas is delivered or placed into the fuel supply tank or tanks of a motor vehicle, and such other information as the director may require. Such application must also contain, as a condition to the issuance of the license, an agreement by the applicant to comply with the provisions and requirements of this act and the rules and regulations promulgated by the director. If the applicant is a partnership or association, the application shall set forth the name and address of each partner or person constituting the partnership, or association, and if a corporation, the names and addresses of the principal officers thereof, and any other information prescribed by the director for the purposes of identification. The application shall be signed and verified by oath or affirmation by the owner, if a natural person, and in case of partnership or association, by a partner or member thereof, and in case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of such person's authority. Any valid LP-gas user's or LP-gas dealer's license in effect on the effective date of this act shall remain in full force and effect and no new application need be made under this act.

(f) In the event that any application for a license to use LP-gas as an

LP-gas user or LP-gas dealer in this state shall be filed by any person whose license shall at any time theretofore have been canceled for cause, or in case the director shall be of the opinion that such application is not filed in good faith, or that such application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been canceled for cause, then and in any of such events, the director may refuse to issue to such person a license in this state. Notice of such refusal shall be mailed to the applicant. Any applicant aggrieved by the order of the director refusing to issue a license may request a hearing of the director on such application by filing with the director a written request therefor. Upon such filing the director shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. If the director finds upon such hearing that applicant is entitled to a license, the director shall order its issuance, but if the director finds that such applicant is not entitled to a license, such director shall enter an order refusing issuance.

(g) Upon the filing of the application for a license, a filing fee of \$5 shall be paid to the director. All such fees collected by the director shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. The application in proper form having been accepted for filing, the bond hereafter provided for having been accepted and approved by the director and the other conditions and requirements of this act having been complied with, the director shall issue to such applicant a license and such license shall be in force so long as the holder thereof has in force a bond as required by this act deposited with the director, or until such license is suspended, surrendered, or revoked for cause by the director. The license issued by the director shall not be assignable and shall be valid only for the LP-gas user or LP-gas dealer in whose name issued, and shall be displayed conspicuously by the LP-gas user or LP-gas dealer at the user's or dealer's principal place of business as set forth in the application.

(h) In the event a person qualifies for both a user's and dealer's license, only one license shall be required. A copy of such user's or dealer's license shall be required for each place of business of the licensee where LP-gas is sold or dispensed. No charge shall be made for additional copies of such user's or dealer's license when such copies are required for multiple business locations.

Sec. 11. K.S.A. 2013 Supp. 79-34,141 is hereby amended to read as follows: 79-34,141. The tax imposed under this act shall be not less than:

- (1) On motor-vehicle fuels other than E85 fuels, \$.24 per gallon, or fraction thereof;
- (2) on special fuels, \$.26 per gallon, or fraction thereof;

- (3) on LP-gas, *other than compressed natural gas and liquefied natural gas*, \$.23 per gallon, or fraction thereof; ~~and~~
- (4) on E85 fuels, \$.17 per gallon, or fraction thereof;
- (5) on *compressed natural gas*, \$.24 per gallon, or fraction thereof; *and*
- (6) on *liquefied natural gas*, \$.26 per gallon, or fraction thereof.

Sec. 12. K.S.A. 79-2109, 79-2110 and 79-3492 and K.S.A. 2013 Supp. 19-430, 79-1613, 79-1703, 79-32,117, 79-32,143a, 79-32,195, 79-3495 and 79-34,141 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 17, 2014.

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CHAPTER 82

Senate Substitute for HOUSE BILL No. 2338  
(Amended by Chapter 115)

TO	SEC.
Judicial branch .....	1

AN ACT concerning the judicial branch; relating to docket fees; making and concerning appropriations for the fiscal year ending June 30, 2015, for the judicial branch; creating the electronic filing and management fund and the judicial branch docket fee fund; abolishing the judicial branch surcharge fund; allowing the allocation of a budget for each judicial district court administration; authority and power of the chief judge of each judicial district; relating to district courts and the court of appeals; selection of chief judge; relating to vacancies in the office of judge of the district court and the office of district magistrate judge; longevity bonuses for judicial branch employees; amending K.S.A. 5-517, 20-162, 20-166, 20-318, 20-319, 20-329, 20-342, 20-343, 20-345, 20-346a, 20-349, 20-361, 20-2909, 20-2911, 20-2914, 20-3011, 25-312a and 60-729 and K.S.A. 2013 Supp. 20-1a04, 20-362, 21-6614, 22-2410, 28-170, 28-172a, 28-172b, 28-177, 28-178, 28-179, 38-2312, 59-104, 60-256, 60-2001, 61-2704, 74-7325, 74-7334, 75-5541, 75-5551 and 75-7021 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 20-367, 21-6614d, 38-2312c and 60-2001b.

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

Section 1.

JUDICIAL BRANCH

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Judiciary operations ..... \$2,000,000

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2015, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Electronic filing and management fund ..... No limit

New Sec. 2. (a) For the fiscal year ending June 30, 2016, and for each fiscal year thereafter, the chief judge in each judicial district may elect to be responsible for the budget of such judicial district pursuant to the provisions of this section.

(b) For the fiscal year ending June 30, 2016, and each fiscal year thereafter, the chief judge in each judicial district who elects to be responsible for the budget shall prepare such budget and submit it to the chief justice of the supreme court pursuant to K.S.A. 20-158, and amendments thereto. On or before August 1, 2014, and each August 1 thereafter, the chief judge shall notify the chief justice if such chief judge is electing to be responsible for the district court budget for the ensuing fiscal year.

(c) Subject to appropriations therefor, the chief justice shall have the final authority to determine and approve the annual amount allocated to the budget for each judicial district court administration in which the chief judge has elected to be responsible for such budget. Annually, as soon as possible following legislation passed by the legislature and enacted into law appropriating moneys for the judicial branch, the chief justice shall determine such budgeted amount for each such judicial district court administration and notify the chief judge of each such judicial district. On or before June 30 of each fiscal year, the chief judge of each judicial district who elects to be responsible for the budget shall submit to the chief justice such district court’s budget for the ensuing fiscal year based upon the dollar amount allocated to such district court by the chief justice for such fiscal year.

(d) After the amount of such district court budget is established by the chief justice, the expenditures under such budget, other than expenditures for salaries mandated by law, shall be under the control and supervision of the chief judge of such judicial district. The judicial administrator of the courts, pursuant to K.S.A. 20-318, and amendments thereto, shall approve all lawful claims submitted by the chief judge within the limits of such judicial district court budget.

(e) The compensation to be paid to district court personnel in such judicial district shall be determined by the chief judge of such judicial district.

(f) The chief judge of such judicial district who elects to be responsible for the budget shall have the authority and power to hire, promote, suspend, demote and dismiss all personnel as necessary to carry out the functions and duties of such judicial district.

(g) Whenever for any fiscal year it appears that the resources of any special revenue fund of the judicial branch are likely to be insufficient to cover the appropriations made against such special revenue funds, the chief justice shall be responsible for determining any allotment system so

as to assure that expenditures for any particular fiscal year will not exceed the available resources of any special revenue fund of the judicial branch for that fiscal year. All chief judges who are responsible for the district court budget shall follow any allotment system determined by the chief justice for such fiscal year.

New Sec. 3. (a) (1) On and after July 1, 2014, any party filing an appeal with the court of appeals shall pay a fee in the amount of \$145 to the clerk of the supreme court.

(2) On and after July 1, 2014, any party filing an appeal with the supreme court shall pay a fee in the amount of \$145 to the clerk of the supreme court.

(b) A poverty affidavit may be filed in lieu of a fee as established in K.S.A. 60-2001, and amendments thereto.

(c) The fee shall be the only costs assessed in each case to services of the clerk of the supreme court. The clerk of the supreme court shall remit all revenues received from this section to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury. The fee shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

(d) Except as provided further, the fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2014, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$10 per fee, to fund the costs of non-judicial personnel.

(e) The state of Kansas and all municipalities in this state, as defined in K.S.A. 12-105a, and amendments thereto, shall be exempt from paying such fee.

New Sec. 4. There is hereby created in the state treasury the electronic filing and management fund. All expenditures from the electronic filing and management fund shall be for purposes of creating, implementing and managing an electronic filing and centralized case management system for the state court system and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief justice of the supreme court or by a person designated by the chief justice.

Sec. 5. K.S.A. 5-517 is hereby amended to read as follows: 5-517. There is hereby created the dispute resolution fund in the state treasury which shall be administered by the judicial administrator. All expenditures from the dispute resolution fund shall be for the purpose of carrying out the dispute resolution act. ~~In addition to funds generated by remittances under K.S.A. 20-367, and amendments thereto, Funds acquired through grants, training fees, registration and approval fees, and other public or~~

private sources and designated for dispute resolution, shall be remitted to the dispute resolution fund for carrying out the dispute resolution act. All expenditures from the dispute resolution fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the judicial administrator or by the judicial administrator's designee.

Sec. 6. K.S.A. 2013 Supp. 20-1a04 is hereby amended to read as follows: 20-1a04. The clerk of the supreme court shall remit all moneys received by or for such clerk for docket fees, and all amounts received for other purposes than those specified in K.S.A. 20-1a01, 20-1a02 or 20-1a03, and amendments thereto, unless by order of the supreme court such clerk is directed to make other disposition thereof to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the judicial branch nonjudicial salary initiative fund, a sum equal to 52.24% of the remittances of docket fees, to the judicial branch nonjudicial salary adjustment fund, a sum equal to 6.72% of the remittance of docket fees, and to the ~~state general~~ *judicial branch docket fee* fund, a sum equal to 41.04% of the remittance of docket fees.

Sec. 7. K.S.A. 20-162 is hereby amended to read as follows: 20-162. (a) The supreme court shall establish by rule a judicial personnel classification system for all nonjudicial personnel in the state court system *who are not subject to the authority and power of the chief judge of each judicial district pursuant to section 2, and amendments thereto*, and for judicial personnel whose compensation is not otherwise prescribed by law. ~~Said~~ *Such* personnel classification system shall ~~take effect on July 1, 1979, and shall~~ prescribe the compensation for all such personnel *who are not subject to the authority and power of the chief judge of each judicial district pursuant to section 2, and amendments thereto*. No county may supplement the compensation of district court personnel ~~included in the judicial personnel compensation system~~. Such compensation shall be established so as to be commensurate with the duties and responsibilities of each type and class of personnel. In establishing the compensation for each type and class of personnel, the supreme court shall take into consideration: (1) The compensation of ~~such personnel prior to January 1, 1979,~~ (2) the compensation of personnel in the executive branch of state government who have comparable duties and responsibilities; and ~~(3)~~ (2) the compensation of similar personnel in the court systems of other states having comparable size, population and characteristics.

(b) The following personnel shall not be included in the judicial personnel classification system:

- (1) County auditors;
- (2) coroners;

- (3) court trustees and personnel in each trustee's office; and
- (4) personnel performing services in adult or juvenile facilities used as a place of detention or for correctional purposes.

The compensation for the above personnel shall be paid by the county as prescribed by law.

(c) The judicial personnel classification system ~~also:~~

(1) Shall prescribe the powers, duties and functions for each type and class of personnel, which shall be subject to and not inconsistent with any provisions of law prescribing powers, duties and functions of such personnel; and

(2) *shall not infringe upon the authority of the chief judge of a judicial district to expend funds in such judicial district's budget for court administration pursuant to section 2, and amendments thereto.*

(d) In conjunction with the judicial personnel classification system, the supreme court shall prescribe a procedure whereby personnel subject to ~~said~~ such classification system who are removed from office by their appointing authority will have an opportunity to seek reinstatement.

~~(e) On or before December 1, 1978, the supreme court shall submit to the legislative coordinating council a detailed personnel classification and pay plan for district court employees that are to be included in the judicial personnel classification system. The plan shall detail each individual position by classification, pay grade and pay step as compared to the employee's present salary. In assignment of positions to particular steps within the assigned pay grade, the plan shall place each employee at the step which is the next highest over the employee's current salary. If an employee is earning more than the highest step on a given grade, his or her salary shall remain at the current level.~~

Sec. 8. K.S.A. 20-166 is hereby amended to read as follows: 20-166.

(a) There is hereby created in the state treasury the access to justice fund. Money credited to the fund ~~pursuant to K.S.A. 20-362, and amendments thereto,~~ shall be used solely for the purpose of making grants for operating expenses to programs, including dispute resolution programs, which provide access to the Kansas civil justice system for persons who would otherwise be unable to gain access to civil justice. Such programs may provide legal assistance to pro se litigants, legal counsel for civil and domestic matters or other legal or dispute resolution services provided the recipient of the assistance or counsel meets financial qualifications under guidelines established by the program in accordance with grant guidelines promulgated by the supreme court of Kansas.

(b) All expenditures from the access to justice fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

(c) The chief justice may apply for, receive and accept money from any source for the purposes for which money in the access to justice fund may be expended. Upon receipt of each such remittance, the chief justice shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the access to justice fund.

(d) Grants made to programs pursuant to this section shall be based on the number of persons to be served and such other requirements as may be established by the Kansas supreme court in guidelines established and promulgated to regulate grants made under authority of this section. The guidelines may include requirements for grant applications, organizational characteristics, reporting and auditing criteria and such other standards for eligibility and accountability as are deemed advisable by the supreme court.

Sec. 9. K.S.A. 20-318 is hereby amended to read as follows: 20-318. (a) There is hereby created within the state of Kansas, a judicial department for the supervision of all courts in the state of Kansas. The supreme court shall divide the state into separate sections, not to exceed six-(6) in number, to be known as judicial departments, each of which shall be assigned a designation to distinguish it from the other departments. A justice of the supreme court shall be assigned as departmental justice for each judicial department.

(b) There is created hereby the position of judicial administrator of the courts, who shall be appointed by the chief justice of the supreme court to serve at the will of the chief justice. The judicial administrator shall have a broad knowledge of judicial administration and substantial prior experience in an administrative capacity. No person appointed as judicial administrator shall engage in the practice of law while serving in such capacity. Compensation of the judicial administrator shall be determined by the justices, but shall not exceed the salary authorized by law for the judge of the district court. The judicial administrator shall be responsible to the chief justice of the supreme court of the state of Kansas, and shall implement the policies of the court with respect to the operation and administration of the courts, *subject to the provisions of section 2, and amendments thereto*, under the supervision of the chief justice. ~~Said~~ The administrator shall perform such other duties as are provided by law or assigned ~~him or her~~ by the supreme court or the chief justice.

(c) Expenditures from appropriations for district court operations to be paid by the state shall be made on vouchers approved by the judicial administrator. All claims for salaries, wages or other compensation for district court operations to be paid by the state shall be certified as provided in K.S.A. 75-3731, *and amendments thereto*, by the judicial administrator.

Sec. 10. K.S.A. 20-319 is hereby amended to read as follows: 20-319.

(a) A justice assigned to each department shall:

(1) With the help and assistance of the judicial administrator, make a survey of the conditions of the dockets and business of the district courts in the justice's department and make a report and recommendations on the conditions and business to the chief justice.

(2) Assemble the judges of the district courts within the justice's department, at least annually, to discuss such recommendations and other business as will benefit the judiciary of the state. When so summoned, the judges of the district courts in the various departments shall attend such conferences at the expense of the state. Such judges shall be entitled to their actual and necessary expenses while attending such conferences and shall be required to attend the conferences unless excused by the departmental justice for good cause.

(b) Departmental justices shall have authority within their departments to assign any district judge or district magistrate judge to hear any proceeding or try any cause, within the judge's jurisdiction, in other district courts. Any departmental justice may request the assistance of any district judge or district magistrate judge from another department.

(c) *Subject to the provisions of section 2, and amendments thereto*, the departmental justices shall supervise all administrative matters relating to the district courts within their departments and require reports periodically, covering such matters and in such form as the supreme court may determine, on any such matter which will aid in promoting the efficiency or the speedy determination of causes now pending. *Nothing in this section shall grant the departmental justice the authority to make or change any budget decisions made by the chief judge of the district court pursuant to section 2, and amendments thereto.* Departmental justices shall have the power to examine the dockets, records and proceedings of any courts under their supervision. All judges and clerks of the several courts of the state shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the supreme court.

(d) In order to properly advise the three branches of government on the operation of the juvenile justice system, each district court shall furnish the judicial administrator such information regarding juveniles coming to the attention of the court pursuant to the revised Kansas code for care of children as is determined necessary by the secretary of social and ~~rehabilitation services~~ *services for children and families* and the director of the statistical analysis center of the Kansas bureau of investigation, on forms approved by the judicial administrator. Such information shall be confidential and shall not be disseminated or publicly disclosed in a manner which enables identification of any individual who is a subject of the information.

(e) The departmental justice shall assign to each chief judge in the

justice's department such duties as are necessary to carry out the intent of just, speedy and inexpensive litigation for the litigants of the state.

Sec. 11. K.S.A. 20-329 is hereby amended to read as follows: 20-329. In every judicial district, the ~~supreme court~~ *district court judges in such judicial district shall designate* elect a district judge as chief judge who shall have general control over the assignment of cases within the district, subject to supervision by the supreme court. *The procedure for such election shall be determined by the district court judges and adopted by district court rule.* Within guidelines established by statute, rule of the supreme court or the district court, the chief judge of each district court shall be responsible for and have general supervisory authority over the clerical and administrative functions of such court. *The district judge designated as chief judge by the supreme court on July 1, 2014, shall be allowed to serve as chief judge through January 1, 2016.*

Sec. 12. K.S.A. 20-342 is hereby amended to read as follows: 20-342. After consultation with the district magistrate judges of such court, each district court, by action of a majority of the district judges thereof, may promulgate such rules as may be necessary to provide for the administrative operations of such court and to facilitate the regulation and supervision of the nonjudicial personnel thereof *subject to the provisions of section 2, and amendments thereto.* Any rules so adopted shall be consistent with applicable statutes and, *subject to the provisions of section 2, and amendments thereto,* rules of the supreme court. Such rules shall be in addition to the rules adopted under authority of K.S.A. 60-267, and amendments thereto.

Sec. 13. K.S.A. 20-343 is hereby amended to read as follows: 20-343. The chief judge of each judicial district, shall appoint a clerk of the district court in each county within such judicial district. The chief judge shall designate one of such clerks as the chief clerk of the district court of such judicial district, except that a chief clerk is not required to be designated in a judicial district which ~~is authorized to have~~ *has* a court administrator pursuant to the personnel plan of the supreme court *or subject to the provisions of section 2, and amendments thereto.* The clerks of the district court and deputies, assistants and other clerical personnel shall have such qualifications as are prescribed for the offices by statute, rule of the district court and rule of the supreme court. Such clerks, deputies, assistants and other personnel shall have such powers, duties and functions as are prescribed by law, prescribed by rules of the supreme court or assigned by the chief judge.

Sec. 14. K.S.A. 20-345 is hereby amended to read as follows: 20-345. Within staffing limits prescribed by the supreme court and appropriations therefor *or the annual budget allocated pursuant to section 2, and amendments thereto,* the chief judge of each judicial district shall appoint such bailiffs, court reporters, secretaries, court services officers and other cler-

ical and nonjudicial personnel as necessary to perform the judicial and administrative functions of the district court. Persons appointed pursuant to this section shall have qualifications prescribed by law or rule of the supreme court. ~~Except as otherwise provided~~ *Unless specifically established* by law, such persons shall receive compensation prescribed by the judicial personnel classification system *or the chief judge, whichever is applicable*. Such persons shall perform the duties and functions prescribed by law, designated in the personnel classification system ~~or and~~ assigned by the chief judge, ~~subject to rule of the supreme court~~. Personnel whose salary is payable by counties shall receive compensation in the amounts provided in the district court budget approved by the board of county commissioners. Whenever any person is employed or assigned to work under direct supervision of any judge or in a division of court in which a judge presides, the employment or assignment of the person shall be subject to the approval of that judge.

Sec. 15. K.S.A. 20-346a is hereby amended to read as follows: 20-346a. (a) The department of corrections shall have the functions and duties provided by law with regard to providing parole officers for felons placed on parole by the ~~Kansas adult authority~~ *prisoner review board* but shall not provide parole officers for the supervision of misdemeanants placed on parole by the district courts of this state. The department of corrections shall provide the visitation, supervision and other services regarding probationers and parolees which are required under the uniform act for out-of-state parolee supervision.

(b) All court services officers supervising adults and juveniles placed on probation by the district courts of this state and all court services officers supervising misdemeanants placed on parole by the district courts of this state shall be appointed by the district courts as provided by law. The supreme court shall prescribe the qualifications required of persons appointed as court services officers of the district courts. The compensation of court services officers of the district courts shall be paid by the state either in accordance with ~~a~~ *the* compensation plan adopted by the supreme court ~~or as may be otherwise specifically provided by law approved by the chief judge of the district court where such officer is appointed, whichever is applicable~~.

~~(c) Any probation and parole officers of the department of corrections who were terminated from service as officers and employees of that department because of the transfer of functions and duties from that department to the district courts under this section and who were appointed as court services officers of the district courts pursuant to this subsection as it existed prior to amendment by this act shall retain all retirement benefits and, to the extent feasible and compatible with the provisions of the judicial personnel system relating to nonjudicial employees of the district courts, these appointments shall be deemed to be transfers with~~

~~all rights of civil service which had accrued to those officers and employees prior to July 1, 1979, and the service of each officer and employee so appointed and transferred shall be deemed to have been continuous.~~

Sec. 16. K.S.A. 20-349 is hereby amended to read as follows: 20-349. The chief judge in each judicial district shall be responsible for the preparation of the budget to be submitted to the board of county commissioners of each county. The board of county commissioners shall then have final authority to determine and approve the budget for district court operations payable by their county. The judicial administrator of the courts shall prescribe the form upon which such budgets shall be submitted. The budget shall include all expenditures payable by the county for operations of the district court in such county. A separate budget shall be prepared for each county within the district and the judges of the district court shall approve the budget for the county in which such judges are regularly assigned prior to submission of such budget to the board of county commissioners. The compensation to be paid to district court personnel excluded from the judicial personnel classification system pursuant to subsection (b) of K.S.A. 20-162, and amendments thereto, shall be listed in the budget as a separate item for each job position. After the amount of such district court budget is established, the expenditures under such budget, other than expenditures for job positions contained in the budget, shall be under the control and supervision of the chief judge, ~~subject to supreme court rules relating thereto,~~ and the board of county commissioners shall approve all claims submitted by the chief judge within the limits of such district court budget. The financial affairs of the district court in each county including, but not limited to, nonexpendable trust funds, law library funds and court trustee operations shall be subject to audit pursuant to the provisions of K.S.A. 75-1122, and amendments thereto, as part of the annual county audit. Reports of fiscal or managerial discrepancies or noncompliance with applicable law shall be made to the judicial administrator of the courts as well as the board of county commissioners. *Chief judges who have not elected to be responsible for the district court budget pursuant to section 2, and amendments thereto, shall be subject to the supreme court rules relating to the district court operations payable by the county.*

Sec. 17. K.S.A. 20-361 is hereby amended to read as follows: 20-361. (a) The state shall pay the salaries of all nonjudicial personnel of the district courts of this state, except for personnel enumerated in subsection (b) of K.S.A. 20-162, and amendments thereto, and no county may supplement the compensation of district court personnel paid by the state. ~~For employees of the district court who were employees of such court on December 31, 1978, a full month's proportion of the employee's annual pay shall be paid for the state payroll period ending on January 17, 1979, notwithstanding that such period is shorter than the normal state~~

~~payroll period.~~ With regard to judicial and nonjudicial personnel of the district courts whose salary is payable by the state, the state shall provide for unemployment security coverage, employer contributions for retirement, workmen's compensation coverage, health insurance coverage and surety bond coverage.

~~(b) The supreme court shall establish a formal pay plan for court reporters serving district judges. Within the limits of legislative appropriations therefor, compensation of such court reporters shall be paid by the state in an amount prescribed by the pay plan established by the supreme court and no county may supplement the compensation of such court reporters. The plan shall detail each reporters position by classification, pay grade and pay step. Except as provided further, the supreme court shall establish a formal pay plan for court reporters serving district judges. Within the limits of legislative appropriations therefor, compensation of court reporters shall be paid by the state in an amount prescribed by the pay plan established by the supreme court. The plan shall detail each reporter's position by classification, pay grade and pay step. Pursuant to section 2, and amendments thereto, compensation of court reporters shall be paid by the state in an amount prescribed by the chief judge of the district court where such reporter serves. No county may supplement the compensation of any court reporter.~~

Sec. 18. K.S.A. 2013 Supp. 20-362 is hereby amended to read as follows: 20-362. The clerk of the district court shall remit all revenues received from docket fees as follows:

(a) At least monthly to the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments thereto, during the preceding calendar month;

(2) a sum equal to \$10 for each \$46 or \$76 docket fee paid pursuant to K.S.A. 61-4001, or K.S.A. 61-2704 or 61-2709, and amendments thereto; and

(3) a sum equal to \$5 for each \$26 docket fee paid pursuant to K.S.A. 61-4001 or K.S.A. 61-2704, and amendments thereto, during the preceding calendar month.

(b) At least monthly to the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) At least monthly to the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to \$2 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month for cases filed in the county and a sum equal to \$1 for each fee paid pursuant to sub-

section (c) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month for cases filed in the county.

~~(d) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the indigents' defense services fund, a sum equal to \$.50 for each docket fee paid pursuant to K.S.A. 28-172a and subsection (d) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month.~~

~~(e)~~—To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the law enforcement training center fund a sum equal to \$15 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month.

~~(f) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the judicial branch surcharge fund a sum equal to the amount collected for credit to that fund, as provided by supreme court rule.~~

~~(g)~~<sup>(e)</sup> To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and distribution according to K.S.A. 20-367, and amendments thereto, a sum equal to the balance which remains from all docket fees paid during the preceding calendar month after deduction of the amounts specified in subsections (a), (b), (c); and ~~(d), (e) and (f)~~. *Of the balance remitted to the state treasury pursuant to this subsection, the state treasurer shall credit 0.99% to the judicial council fund. During the fiscal years ending June 30, 2015, June 30, 2016, and June 30, 2017, of the remainder, the state treasurer shall deposit and credit the first \$3,100,000 to the electronic filing and management fund created in section 4, and amendments thereto. During the fiscal year ending June 30, 2018, and each fiscal year thereafter, of the remainder, the state treasurer shall deposit and credit the first \$1,000,000 to the electronic filing and management fund. Of the balance which remains after deduction of the amounts specified in this subsection, the state treasurer shall deposit and credit the remainder to the judicial branch docket fee fund.*

Sec. 19. K.S.A. 20-2909 is hereby amended to read as follows: 20-2909. (a) (1) Whenever a vacancy occurs in the office of judge of the district court in any judicial district, or whenever a vacancy will occur in such office on a specified future date, the chief justice of the supreme court ~~promptly~~ shall give notice of such vacancy to the chairperson of the district judicial nominating commission of such judicial district *not later than 120 days following the date the vacancy occurs or will occur.*

(2) The chairperson, in consultation with members of the commission, within five days after receipt of such notice, shall set a schedule for accepting nominations and conducting interviews for the purpose of nom-

inating persons for appointment to such office. It shall be the duty of the commission to nominate not less than two nor more than three persons for each office which is vacant, and shall submit the names of the persons so nominated to the governor. Any person nominated shall have the qualifications prescribed by subsection (b) of K.S.A. 20-2903, and amendments thereto, and in order to obtain the best qualified persons as nominees, the commission shall not limit its consideration of potential nominees to those persons whose names have been submitted to the commission or who have expressed a willingness to serve. The commission may authorize one or more members of the commission to tender a nomination to any qualified person in order to ascertain the person's willingness to serve if nominated, but any such tender of nomination shall be subject to final action of the commission under the conditions prescribed by subsection (b) of K.S.A. 20-2907, and amendments thereto.

(3) In order that a vacancy in the office of judge of the district court does not exist for an inordinate length of time, the commission shall conduct the business of selecting nominees for appointment to such office and certifying the same to the governor as promptly and expeditiously as possible, having due regard for the importance of selecting the best possible nominees. In no event shall the commission submit its nominations to the governor more than 45 days after the date the chief justice has notified the nominating commission that a vacancy is to be filled, unless the chief justice permits an extension of such time period.

(b) If there are not at least two attorneys deemed qualified by the district judicial nominating commission who reside in the judicial district and who are willing to accept the nomination to fill a vacancy in a district judge position, the nominating commission need not limit its consideration of nominees to attorneys residing in the judicial district. In cases where there is one such attorney, such attorney shall be one of the nominees submitted to the governor. If an appointee is not a resident of the judicial district at the time of appointment to a district judge position, the appointee shall establish residency in the judicial district before taking office and shall maintain such residency while holding such office.

Sec. 20. K.S.A. 20-2911 is hereby amended to read as follows: 20-2911. (a) Whenever a district judicial nominating commission has submitted to the governor the required number of nominations for appointment to fill a vacancy in the office of judge of the district court, it shall be the duty of the governor to make such appointment within ~~thirty (30)~~ 60 days after such nominations are submitted or resubmitted to ~~him or her~~ the governor. If the governor fails to make the appointment within ~~said thirty (30)~~ 60 days, the chief justice of the supreme court shall make the appointment from among such nominees, ~~but, except~~ whenever any change in the nominations is made pursuant to K.S.A. 20-2910, ~~said thirty-~~

~~day~~ *and amendments thereto*, such 60-day period commences on the day the nominations are resubmitted.

(b) Whenever a vacancy in the office of judge of the district court exists at the time the appointment to fill such vacancy is made pursuant to this section, the appointment shall be effective at the time it is made, but where an appointment is made pursuant to this section to fill a vacancy which will occur at a future date, such appointment shall not take effect until ~~said~~ *such future date*.

Sec. 21. K.S.A. 20-2914 is hereby amended to read as follows: 20-2914. (a) Whenever a vacancy shall occur in the office of district magistrate judge in any judicial district which has approved the proposition of nonpartisan selection of district court judges, or whenever a vacancy will occur in such office on a specified future date, the chief justice of the supreme court ~~promptly~~ shall give notice of such vacancy to the chairperson of the district judicial nominating commission of such judicial district *not later than 120 days following the date the vacancy occurs or will occur*. The chairperson, in consultation with members of the commission, within five days after receipt of such notice, shall set a schedule for accepting nominations and ~~conducting~~ *conducting* interviews for the purpose of selecting a person to fill such vacancy. Any person so selected shall have the qualifications prescribed by subsection (c) of K.S.A. 20-334, *and amendments thereto*, and in order to obtain the best qualified person as a district magistrate judge, the commission shall not limit its consideration of potential appointees to those persons whose names have been submitted to the commission or who have expressed a willingness to serve. The commission may authorize one or more members of the commission to tender an appointment to any qualified person in order to ascertain such person's willingness to serve if appointed. Any such tender of appointment shall be subject to final action of the commission under the conditions prescribed by subsection (b) of K.S.A. 20-2907, and amendments thereto.

(b) Any appointment made pursuant to subsection (a) shall be contingent upon the acceptance of such appointment by the person so appointed and, if such person is not regularly admitted to practice law in Kansas, the appointment shall be made on a temporary basis until such person has been certified by the supreme court as qualified to hold such office, in the manner provided by K.S.A. 20-337, and amendments thereto.

Sec. 22. K.S.A. 20-3011 is hereby amended to read as follows: 20-3011. ~~The supreme court~~ *court of appeals judges shall designate elect* a judge of the court of appeals to serve as chief judge of such court ~~at the pleasure of the supreme court~~. *The procedure for such election shall be determined by the court of appeals*. The chief judge shall exercise such administrative powers as may be prescribed by law or by rule of the

supreme court. *The judge of the court of appeals designated as chief judge by the supreme court on July 1, 2014, shall be allowed to serve as chief judge through January 1, 2016.*

Sec. 23. K.S.A. 2013 Supp. 21-6614 is hereby amended to read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 of the drug grid may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b), (c), (d), (e) and (f), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Any person convicted of prostitution, as defined in K.S.A. 21-3512, prior to its repeal, convicted of a violation of K.S.A. 2013 Supp. 21-6419, and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; and

(2) such person can prove they were acting under coercion caused by the act of another. For purposes of this subsection, “coercion” means: Threats of harm or physical restraint against any person; a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

(c) Except as provided in subsections (e) and (f), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a sus-

pendent sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity levels 1 through 4 of the drug grid, or:

(1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its repeal, or K.S.A. 2013 Supp. 21-5406, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(4) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(6) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(7) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(8) a violation of K.S.A. 21-3405b, prior to its repeal.

(d) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation.

(e) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child or aggravated indecent liberties

with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal, or K.S.A. 2013 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(5) indecent solicitation of a child or aggravated indecent solicitation of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2013 Supp. 21-5508, and amendments thereto;

(6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2013 Supp. 21-5510, and amendments thereto;

(7) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2013 Supp. 21-5604, and amendments thereto;

(8) endangering a child or aggravated endangering a child, as defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2013 Supp. 21-5601, and amendments thereto;

(9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2013 Supp. 21-5602, and amendments thereto;

(10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2013 Supp. 21-5401, and amendments thereto;

(11) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2013 Supp. 21-5402, and amendments thereto;

(12) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2013 Supp. 21-5403, and amendments thereto;

(13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2013 Supp. 21-5404, and amendments thereto;

(14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2013 Supp. 21-5405, and amendments thereto;

(15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2013 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2013 Supp. 21-5505, and amendments thereto;

(17) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or

(18) any conviction for any offense in effect at any time prior to July 1, 2011, that is comparable to any offense as provided in this subsection.

(f) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(g) (1) When a petition for expungement is filed, the court shall set

a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecutor and the arresting law enforcement agency. The petition shall state the:

- (A) Defendant's full name;
- (B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;
- (C) defendant's sex, race and date of birth;
- (D) crime for which the defendant was arrested, convicted or diverted;
- (E) date of the defendant's arrest, conviction or diversion; and
- (F) identity of the convicting court, arresting law enforcement authority or diverting authority.

(2) Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of ~~\$100~~ \$176. On and after ~~April 12, 2012, through June 30, 2013~~ *July 1, 2013, through July 1, 2015*, the supreme court may impose a charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(3) All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the prisoner review board.

(h) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(i) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2013 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the *Kansas* department for ~~children and families~~ *aging and disability services*;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

(F) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(G) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(H) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(I) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-12a102, and amendments thereto;

(J) in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed

weapon pursuant to the personal and family protection act, K.S.A. 2013 Supp. 75-7c01 et seq., and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(j) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(k) (1) Subject to the disclosures required pursuant to subsection (i), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime.

(2) Notwithstanding the provisions of subsection (k)(1), and except as provided in subsection (a)(3)(A) of K.S.A. 2013 Supp. 21-6304, and amendments thereto, the expungement of a prior felony conviction does not relieve the individual of complying with any state or federal law relating to the use, shipment, transportation, receipt or possession of firearms by persons previously convicted of a felony.

(l) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of the department for children and families for aging and disability services, or a designee of the secretary, for the purpose of

obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the *Kansas* department for ~~children and families~~ *for aging and disability services* of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

(12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser represen-

tative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto;

(16) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act; or

(17) the Kansas bureau of investigation for the purposes of:

(A) Completing a person's criminal history record information within the central repository, in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(m) The provisions of subsection (l)(17) shall apply to records created prior to, on and after July 1, 2011.

Sec. 24. K.S.A. 2013 Supp. 22-2410 is hereby amended to read as follows: 22-2410. (a) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. When a petition for expungement is filed, the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of ~~\$100~~ \$176. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$19 per docket fee, to fund the costs of non-judicial personnel. The petition shall state:

- (1) The petitioner's full name;
- (2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;
- (3) the petitioner's sex, race and date of birth;
- (4) the crime for which the petitioner was arrested;
- (5) the date of the petitioner's arrest; and
- (6) the identity of the arresting law enforcement agency.

No surcharge or fee shall be imposed to any person filing a petition pursuant to this section, who was arrested as a result of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-6107, and amendments thereto, or who has had criminal charges dismissed because a court has found that there was no probable cause for the arrest, the petitioner was found not guilty in court proceedings or the charges have been dismissed. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(c) At the hearing on a petition for expungement, the court shall order the arrest record and subsequent court proceedings, if any, expunged upon finding: (1) The arrest occurred because of mistaken identity;

- (2) a court has found that there was no probable cause for the arrest;
- (3) the petitioner was found not guilty in court proceedings; or
- (4) the expungement would be in the best interests of justice and:  
(A) Charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes: (1) In any application for employment as a detective with a private detective agency, as defined in K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

(2) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(3) to aid in determining the petitioner's qualifications for employ-

ment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(4) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(5) in any application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(6) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(7) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(8) in any other circumstances which the court deems appropriate.

(f) The court shall make all expunged records and related information in such court's possession, created prior to, on and after July 1, 2011, available to the Kansas bureau of investigation for the purposes of:

(1) Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(2) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(g) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(h) Whenever a petitioner's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

(i) The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

Sec. 25. K.S.A. 25-312a is hereby amended to read as follows: 25-312a. Except as otherwise provided in K.S.A. 20-2903 through 20-2913, and amendments thereto, whenever a vacancy occurs in the office of judge of the district court, it shall be filled by appointment by the gov-

error following receipt of notice from the clerk of the supreme court, which shall be given not later than 120 days following the date the vacancy occurs or will occur. If the vacancy occurs on or after May 1 of the second year of the term, the person so appointed shall serve for the remainder of the unexpired term and until a successor is elected and qualified. If the vacancy occurs before May 1 of the second year of the term, the person appointed to fill the vacancy shall serve until a successor is elected and qualified at the next general election to serve the remainder of the unexpired term. Any appointment made by the governor as required by this section shall be made within ~~60 days after the vacancy occurs~~ 90 days following receipt of notice from the clerk of the supreme court.

Sec. 26. K.S.A. 2013 Supp. 28-170 is hereby amended to read as follows: 28-170. (a) The docket fee prescribed by K.S.A. 60-2001, and amendments thereto, and the fees for service of process, shall be the only costs assessed for services of the clerk of the district court and the sheriff in any case filed under chapter 60 or chapter 61 of the Kansas Statutes Annotated, and amendments thereto, except that no fee shall be charged for an action filed under K.S.A. 60-3101 et seq., and under K.S.A. 60-31a01 et seq., and amendments thereto. For services in other matters in which no other fee is prescribed by statute, the following fees shall be charged and collected by the clerk. Only one fee shall be charged for each bond, lien or judgment:

1. For filing, entering and releasing a bond, mechanic’s lien, notice of intent to perform, personal property tax judgment or any judgment on which execution process cannot be issued ..... \$14
2. For filing, entering and releasing a judgment of a court of this state on which execution or other process can be issued ..... \$24
3. For a certificate, or for copying or certifying any paper or writ, such fee as shall be prescribed by the district court.

(b) The fees for entries, certificates and other papers required in naturalization cases shall be those prescribed by the federal government and, when collected, shall be disbursed as prescribed by the federal government. The clerk of the court shall remit to the state treasurer at least monthly all moneys received from fees prescribed by subsection (a) or (b) or received for any services performed which may be required by law. The state treasurer shall deposit the remittance in the state treasury and credit the entire amount to the state general fund.

(c) In actions pursuant to the revised Kansas code for care of children, K.S.A. 2013 Supp. 38-2201 et seq., and amendments thereto, the revised Kansas juvenile justice code, K.S.A. 2013 Supp. 38-2301 et seq., and amendments thereto, the act for treatment of alcoholism, K.S.A. 65-4001 et seq., and amendments thereto, the act for treatment of drug abuse, K.S.A. 65-5201 et seq., and amendments thereto, or the care and treatment act for mentally ill persons, K.S.A. 59-2945 et seq., and amendments

thereto, the clerk shall charge an additional fee of \$1 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a, and amendments thereto.

(d) ~~In actions pursuant to the revised Kansas code for care of children, K.S.A. 2013 Supp. 38-2201 et seq., and amendments thereto, the revised Kansas juvenile justice code, K.S.A. 2013 Supp. 38-2301 et seq., and amendments thereto, the act for treatment of alcoholism, K.S.A. 65-4001 et seq., and amendments thereto, the act for treatment of drug abuse, K.S.A. 65-5201 et seq., and amendments thereto, or the care and treatment act for mentally ill persons, K.S.A. 50-2045 et seq., and amendments thereto, the clerk shall charge an additional fee of \$.50 which shall be deducted from the docket fee and credited to the indigents' defense services fund as provided in K.S.A. 28-172b, and amendments thereto.~~

(e) Except as provided further, the bond, lien or judgment fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such bond, lien or judgment. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per bond, lien or judgment fee, to fund the costs of non-judicial personnel.

Sec. 27. K.S.A. 2013 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows, on and after July 1, 2013:

Murder or manslaughter .....	\$180.50
Other felony .....	171.00
Misdemeanor .....	136.00
Forfeited recognizance .....	72.50
Appeals from other courts .....	72.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways, including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto, a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of the Kansas Statutes Annotated, and amendments thereto, or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, ~~2013~~ 2014, a docket fee of ~~\$74~~ \$86 shall be charged. When an action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, on and after July 1, ~~2013~~ 2014, the docket fee to be paid as court costs shall be ~~\$74~~ \$86.

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, ~~2013~~ 2014, a docket fee of ~~\$74~~ \$86 shall be charged. When an action is disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, on and after July 1, ~~2013~~ 2014, the docket fee to be paid as court costs shall be ~~\$74~~ \$86.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) ~~Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund the emergency medical services operating fund and the judiciary technology fund made pursuant to the provisions of K.S.A. 20-362, and amendments thereto,~~ shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

(f) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise

to collect a fee. On and after July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 28. K.S.A. 2013 Supp. 28-172b is hereby amended to read as follows: 28-172b. (a) There is hereby established in the state treasury an indigents' defense services fund.

~~(b) The clerk of the district court shall charge a fee of \$.50 in each criminal case, to be deducted from the docket fee as provided in K.S.A. 28-172a, and amendments thereto, and shall charge a fee of \$.50 in each case pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code and each mental illness, drug abuse or alcoholism treatment action as provided by subsection (d) of K.S.A. 28-170, and amendments thereto. The clerk of the district court shall remit all such fees received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the indigents' defense services fund.~~

(c) Moneys in the indigents' defense services fund shall be used exclusively to provide counsel and related services for indigent defendants. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state board of indigents' defense services or a person designated by the chairperson.

Sec. 29. K.S.A. 2013 Supp. 28-177 is hereby amended to read as follows: 28-177. (a) Except as provided in this section and K.S.A. 2013 Supp. 28-178, and amendments thereto, the fees established by legislative enactment shall be the only fee collected or moneys in the nature of a fee collected for court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Court procedures shall include docket fees, filing fees or other fees related to access to court procedures. On and after July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$26.50 per fee or the amount established by the applicable statute, whichever amount is less, to fund the costs of non-judicial personnel.

(b) Such additional charge imposed by the court pursuant to K.S.A. 8-2107, 8-2110, 22-2410, 28-170, 28-172a, 59-104, 60-2001, 60-2203a, 61-2704, 61-4001 and 65-409 and K.S.A. 2013 Supp. 21-6614, 23-2510, 28-178, 28-179, 32-1049a, 38-2215, 38-2312 and 38-2314, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the judicial branch ~~surcharge~~ *docket fee* fund, which is hereby created in the state treasury.

(c) ~~All Moneys credited to the judicial branch surcharge docket fee fund shall be used for compensation of non-judicial personnel and shall not be expended for compensation of judges or justices of the judicial branch.~~

(d) All expenditures from the judicial branch ~~surcharge docket fee~~ fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to ~~payrolls~~ *vouchers* approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

(e) *Expenditures may be made from the judicial branch docket fee fund to provide services and programs for the purpose of educating and training judicial branch officers and employees, administering the training, testing and education of municipal judges as provided in K.S.A. 12-4114, and amendments thereto, and for educating and training municipal judges and municipal court and support staff, including official hospitality. The judicial administrator is hereby authorized to fix, charge and collect fees for such services and programs. Such fees may be fixed to cover all or part of the operating expenditures incurred in providing such services and programs, including official hospitality. All fees received for such purposes and programs, including official hospitality, shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the judicial branch docket fee fund.*

(f) *On the effective date of this act:*

(1) *The director of accounts and reports shall transfer all moneys in the judicial branch surcharge fund to the judicial branch docket fee fund;*

(2) *all liabilities of the judicial branch surcharge fund existing prior to that date are hereby imposed on the judicial branch docket fee fund; and*

(3) *the judicial branch surcharge fund is hereby abolished.*

Sec. 30. K.S.A. 2013 Supp. 28-178 is hereby amended to read as follows: 28-178. (a) In addition to any other fees specifically prescribed by law, on and after July 1, 2013, through July 1, 2015, the supreme court may impose a charge, not to exceed \$12.50 per fee, to fund the costs of non-judicial personnel, on the following:

(1) A person who requests an order or writ of execution pursuant to K.S.A. 60-2401 or 61-3602, and amendments thereto.

(2) Persons who request a hearing in aid of execution pursuant to K.S.A. 60-2419, and amendments thereto.

(3) A person requesting an order for garnishment pursuant to article 7 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, or article 35 of chapter 61 of the Kansas Statutes Annotated, and amendments thereto.

(4) Persons who request a writ or order of sale pursuant to K.S.A. 60-2401 or 61-3602, and amendments thereto.

(5) A person who requests a hearing in aid of execution pursuant to K.S.A. 61-3604, and amendments thereto.

(6) A person who requests an attachment against the property of a defendant or any one or more of several defendants pursuant to K.S.A. 60-701 or 61-3501, and amendments thereto.

(b) The clerk of the district court shall remit all revenues received from the fees imposed pursuant to subsection (a) to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the judicial branch ~~surcharge~~ *docket fee* fund.

(c) The fees established in this section shall be the only fee collected or moneys in the nature of a fee collected for such court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 31. K.S.A. 2013 Supp. 28-179 is hereby amended to read as follows: 28-179. (a) No post-decree motion petitioning for a modification or termination of separate maintenance, for a change in legal custody, residency, visitation rights or parenting time or for a modification of child support shall be filed or docketed in the district court without payment of a docket fee in the amount of \$40 on and after July 1, 2013, to the clerk of the district court.

(b) A poverty affidavit may be filed in lieu of a docket fee as established in K.S.A. 60-2001, and amendments thereto.

(c) The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with ~~subsection (f)~~ of K.S.A. 20-362, and amendments thereto.

(d) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 32. K.S.A. 2013 Supp. 38-2312 is hereby amended to read as follows: 38-2312. (a) Except as provided in subsection (b) and (c), any records or files specified in this code concerning a juvenile may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the juvenile, if 18 years of age or older or, if the juvenile is less than 18 years of age, by the juvenile's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2013 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2013 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A. 2013 Supp. 21-5404, and amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2013 Supp. 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or K.S.A. 2013 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. 2013 Supp. 21-5405, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5506, and amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5506, and amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5508, and amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5508, and amendments thereto, aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 2013 Supp. 21-5510, and amendments thereto, sexual exploitation of a child; K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5604, and amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5601, and amendments thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2013 Supp. 21-5602, and amendments thereto, abuse of a child; or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

(c) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(d) When a petition for expungement is filed, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state: (1) The juvenile's full name; (2) the full name of the juvenile as reflected in the court record, if different than (1); (3) the juvenile's sex and date of birth; (4) the offense for which the juvenile was adjudicated; (5) the date of the trial; and (6)

the identity of the trial court. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of ~~\$100~~ \$176. On and after the effective date of this act through ~~June 30, 2013~~ *July 1, 2013, through July 1, 2015*, the supreme court may impose a charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. All petitions for expungement shall be docketed in the original action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(e) (1) After hearing, the court shall order the expungement of the records and files if the court finds that:

(A) (i) The juvenile has reached 23 years of age or that two years have elapsed since the final discharge; or

(ii) one year has elapsed since the final discharge for an adjudication concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 2013 Supp. 21-6419, and amendments thereto;

(B) since the final discharge of the juvenile, the juvenile has not been convicted of a felony or of a misdemeanor other than a traffic offense or adjudicated as a juvenile offender under the revised Kansas juvenile justice code and no proceedings are pending seeking such a conviction or adjudication; and

(C) the circumstances and behavior of the petitioner warrant expungement.

(2) The court may require that all court costs, fees and restitution shall be paid.

(f) Upon entry of an order expunging records or files, the offense which the records or files concern shall be treated as if it never occurred, except that upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed. The petitioner, the court and all law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the juvenile. Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the subject of the files or records and the person's designees.

(g) A certified copy of any order made pursuant to subsection (a) or (d) shall be sent to the Kansas bureau of investigation, which shall notify every juvenile or criminal justice agency which may possess records or files ordered to be expunged. If the agency fails to comply with the order within a reasonable time after its receipt, such agency may be adjudged in contempt of court and punished accordingly.

(h) The court shall inform any juvenile who has been adjudicated a juvenile offender of the provisions of this section.

(i) Nothing in this section shall be construed to prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the juvenile.

(j) Nothing in this section shall be construed to permit or require expungement of files or records related to a child support order registered pursuant to the revised Kansas juvenile justice code.

(k) Whenever the records or files of any adjudication have been expunged under the provisions of this section, the custodian of the records or files of adjudication relating to that offense shall not disclose the existence of such records or files, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of the department for children and families for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for children and families aging and disability services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(7) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(8) the Kansas sentencing commission; or

(9) the Kansas bureau of investigation, for the purposes of:

(A) Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(B) providing information or documentation to the federal bureau of

investigation, in connection with the national instant criminal background check system, to determine a person’s qualification to possess a firearm.

(l) The provisions of subsection (k)(9) shall apply to all records created prior to, on and after July 1, 2011.

Sec. 33. K.S.A. 2013 Supp. 59-104 is hereby amended to read as follows: 59-104. (a) *Docket fee.* (1) Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, without payment of an appropriate docket fee as follows, on and after July 1, ~~2013~~ 2014:

Treatment of mentally ill .....	\$34.50
Treatment of alcoholism or drug abuse.....	34.50
Determination of descent of property.....	49.50
Termination of life estate.....	48.50
Termination of joint tenancy .....	48.50
Refusal to grant letters of administration .....	48.50
Adoption .....	48.50
Filing a will and affidavit under K.S.A. 59-618a .....	48.50
Guardianship .....	69.50
Conservatorship .....	69.50
Trusteeship .....	69.50
Combined guardianship and conservatorship .....	69.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto .....	23.50
Decrees in probate from another state .....	<del>108.50</del> 73.00
Probate of an estate or of a will .....	109.50
Civil commitment under K.S.A. 59-29a01 et seq. ....	33.50

(2) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

(b) *Poverty affidavit in lieu of docket fee and exemptions.* The provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) *Disposition of docket fee.* Statutory charges for the law library and for the prosecuting attorneys’ training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as

additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 34. K.S.A. 2013 Supp. 60-256 is hereby amended to read as follows: 60-256. (a) *By a claiming party.* A party claiming relief may move, with or without supporting affidavits or supporting declarations pursuant to K.S.A. 53-601, and amendments thereto, for summary judgment on all or part of the claim.

(b) *By a defending party.* A party against whom relief is sought may move, with or without supporting affidavits or supporting declarations pursuant to K.S.A. 53-601, and amendments thereto, for summary judgment on all or part of the claim.

(c) *Time for a motion; response and reply; proceedings.* (1) These times apply unless a different time is set by local rule or the court orders otherwise:

(A) A party may move for summary judgment at any time until 30 days after the close of all discovery;

(B) a party opposing the motion must file a response within 21 days after the motion is served or a responsive pleading is due, whichever is later; and

(C) the movant may file a reply within 14 days after the response is served.

(2) The judgment sought should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits or declarations show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.

(d) *Case not fully adjudicated on the motion.* (1) *Establishing facts.* If summary judgment is not rendered on the whole action, the court should, to the extent practicable, determine what material facts are not genuinely at issue. The court should so determine by examining the pleadings and evidence before it and by interrogating the attorneys. It should then issue an order specifying what facts, including items of damages or other relief, are not genuinely at issue. The facts so specified must be treated as established in the action.

(2) *Establishing liability.* An interlocutory summary judgment may be rendered on liability alone, even if there is a genuine issue on the amount of damages.

(e) *Affidavits or declarations; further testimony.* (1) *In general.* A

supporting or opposing affidavit or declaration must be made on personal knowledge, set out facts that would be admissible in evidence and show that the affiant or declarant is competent to testify on the matters stated. If a paper or part of a paper is referred to in an affidavit or declaration, a sworn or certified copy must be attached to or served with the affidavit or declaration. The court may permit an affidavit or declaration to be supplemented or opposed by depositions, answers to interrogatories or additional affidavits or declarations.

(2) *Opposing party's obligation to respond.* When a motion for summary judgment is properly made and supported, an opposing party may not rely merely on allegations or denials in its own pleading; rather, its response must, by affidavits or by declarations pursuant to K.S.A. 53-601, and amendments thereto, or as otherwise provided in this section, set out specific facts showing a genuine issue for trial. If the opposing party does not so respond, summary judgment should, if appropriate, be entered against that party.

(f) *When affidavits or declarations are unavailable.* If a party opposing the motion shows by affidavit or by declaration pursuant to K.S.A. 53-601, and amendments thereto, that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

(1) Deny the motion;

(2) order a continuance to enable affidavits or declarations to be obtained, depositions to be taken or other discovery to be undertaken; or

(3) issue any other just order.

(g) *Affidavits or declarations submitted in bad faith.* If satisfied that an affidavit or declaration under this section is submitted in bad faith or solely for delay, the court must order the submitting party or attorney to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may be held in contempt.

(h) *Fee for filing a motion for summary judgment.* (1) *On and after July 1, 2014, any party filing a motion for summary judgment shall pay a fee in the amount of \$195 to the clerk of the district court.*

(2) *A poverty affidavit may be filed in lieu of a fee as established in K.S.A. 60-2001, and amendments thereto.*

(3) *The fee shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.*

(4) *Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.*

(5) *The state of Kansas and all municipalities in this state, as defined in K.S.A. 12-105a, and amendments thereto, shall be exempt from paying such fee.*

(6) *The provisions of this subsection shall not apply to an action pursuant to the code of civil procedure for limited actions.*

Sec. 35. K.S.A. 60-729 is hereby amended to read as follows: 60-729. (a) Garnishment is a procedure whereby the wages, money or intangible property of a person can be seized or attached pursuant to an order of garnishment issued by the court under the conditions set forth in the order.

(b) *On and after July 1, 2014, any party requesting an order of garnishment shall pay a fee in the amount of \$7.50 to the clerk of the district court.*

(c) *A poverty affidavit may be filed in lieu of a fee as established in K.S.A. 60-2001, and amendments thereto.*

(d) *The fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The fee shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.*

(e) *Except as provided further, the fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2014, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$12.50 per fee, to fund the costs of non-judicial personnel.*

(f) *The state of Kansas and all municipalities in this state, as defined in K.S.A. 12-105a, and amendments thereto, shall be exempt from paying such fee.*

Sec. 36. K.S.A. 2013 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of ~~\$156 on and after July 1, 2009 through June 30, 2013, and \$154~~ \$173 on and after July 1, ~~2013~~ 2014, to the clerk of the district court. Except as provided further, the docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after the effective date of this act ~~through June 30, 2013~~ July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

(b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in: (A) The six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such state-

ment shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) *Form of affidavit.* The affidavit provided for in this subsection shall set forth a factual basis upon which the plaintiff alleges by reason of poverty an inability to pay a docket fee, including, but not limited to, the source and amount of the plaintiff's weekly income. Such affidavit shall be signed and sworn to by the plaintiff under oath, before one who has authority to administer the oath, under penalty of perjury, K.S.A. 2013 Supp. 21-5903, and amendments thereto. The form of the affidavit shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

(3) *Court review; grounds for dismissal; service of process.* The court shall review any petition authorized for filing under this subsection. Upon such review, if the court finds that the plaintiff's allegation of poverty is untrue, the court shall direct the plaintiff to pay the docket fee or dismiss the petition without prejudice. Notwithstanding K.S.A. 60-301, and amendments thereto, service of process shall not issue unless the court grants leave following its review.

(c) *Disposition of fees.* The docket fees and the fees for service of process shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. For every person to be served by the sheriff, the persons requesting service of process shall provide proper payment to the clerk and the clerk of the district court shall forward the service of process fee to the sheriff in accordance with K.S.A. 28-110, and amendments thereto. The service of process fee, if paid by check or money order, shall be made payable to the sheriff. Such service of process fee shall be submitted by the sheriff at least monthly to the county treasurer for deposit in the county treasury and credited to the county general fund. The docket fee shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney

fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any mileage for serving any papers or process.

Sec. 37. K.S.A. 2013 Supp. 61-2704 is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed, service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service.

(b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of ~~\$37~~ \$35 on and after July 1, ~~2013~~ 2014, if the claim does not exceed \$500; or ~~\$57~~ \$55 on and after July 1, ~~2013~~ 2014, if the claim exceeds \$500; unless for good cause shown the judge waives the fee. The docket fee shall be the only costs required in an action seeking recovery of a small claim. No person may file more than 20 small claims under this act in the same court during any calendar year.

(c) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2013, through July 1, 2015, the supreme court may impose an additional charge, not to exceed \$12.50 per docket fee, to fund the costs of non-judicial personnel.

Sec. 38. K.S.A. 2013 Supp. 74-7325 is hereby amended to read as follows: 74-7325. (a) There is hereby created in the state treasury the protection from abuse fund. All moneys credited to the fund shall be used solely for the purpose of making grants to programs providing: (1) Temporary emergency shelter for adult victims of domestic abuse or sexual assault and their dependent children; (2) counseling and assistance to those victims and their children; or (3) educational services directed at reducing the incidence of domestic abuse or sexual assault and diminishing its impact on the victims. All moneys credited to the fund ~~pursuant to K.S.A. 20-367, and amendments thereto,~~ shall be used only for ongoing operating expenses of domestic violence programs. All moneys credited to the fund pursuant to any increase in docket fees as provided by this act as described in ~~K.S.A. 20-367 and~~ 60-2001, and amendments thereto, shall not be awarded to programs until July 1, 2003, and shall be used for ongoing operating expenses of domestic violence or sexual assault programs.

(b) All expenditures from the protection from abuse fund shall be

made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.

(c) The attorney general may apply for, receive and accept moneys from any source for the purposes for which moneys in the protection from abuse fund may be expended. Upon receipt of any such moneys, the attorney general shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the protection from abuse fund.

(d) Grants made to programs pursuant to this section shall be based on the numbers of persons served by the program and shall be made only to the city of Wichita or to agencies which are engaged, as their primary function, in programs aimed at preventing domestic violence or sexual assault or providing residential services or facilities to family or household members who are victims of domestic violence or sexual assault. In order for programs to qualify for funding under this section, they must:

(1) Meet the requirements of section 501(c) of the internal revenue code of 1986;

(2) be registered and in good standing as a nonprofit corporation;

(3) meet normally accepted standards for nonprofit organizations;

(4) have trustees who represent the racial, ethnic and socioeconomic diversity of the county or counties served;

(5) have received 50% or more of their funds from sources other than funds distributed through the fund, which other sources may be public or private and may include contributions of goods or services, including materials, commodities, transportation, office space or other types of facilities or personal services;

(6) demonstrate ability to successfully administer programs;

(7) make available an independent certified audit of the previous year's financial records;

(8) have obtained appropriate licensing or certification, or both;

(9) serve a significant number of residents of the county or counties served;

(10) not unnecessarily duplicate services already adequately provided to county residents; and

(11) agree to comply with reporting requirements of the attorney general.

The attorney general may adopt rules and regulations establishing additional standards for eligibility and accountability for grants made pursuant to this section.

(e) As used in this section:

(1) “Domestic abuse” means abuse as defined by the protection from abuse act~~(, K.S.A. 60-3101 et seq., and amendments thereto)~~.

(2) “Sexual assault” means acts defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6419 through 21-6421, and amendments thereto.

(f) On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the protection from abuse fund interest earnings based on:

(1) The average daily balance of moneys in the protection from abuse fund for the preceding month; and

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

Sec. 39. K.S.A. 2013 Supp. 74-7334 is hereby amended to read as follows: 74-7334. (a) There is hereby created in the state treasury the crime victims assistance fund. All moneys credited to the fund pursuant to K.S.A. 12-4117, 19-101e; ~~and 19-4707 and 20-367~~, and amendments thereto, shall be used solely for the purpose of making grants for on-going operating expenses of programs, including court-appointed special advocate programs, providing: (1) Temporary emergency shelter for victims of child abuse and neglect; (2) counseling and assistance to those victims; or (3) educational services directed at reducing the incidence of child abuse and neglect and diminishing its impact on the victim. The remainder of moneys credited to the fund shall be used for the purpose of supporting the operation of state agency programs which provide services to the victims of crime and making grants to existing programs or to establish and maintain new programs providing services to the victims of crime.

(b) All expenditures from the crime victims assistance fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.

(c) The attorney general may apply for, receive and accept moneys from any source for the purposes for which moneys in the crime victims assistance fund may be expended. Upon receipt of any such moneys, the attorney general shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the crime victims assistance fund.

(d) Grants made to programs with funds derived from K.S.A. 12-4117, 19-101e; ~~and 19-4707 and 20-367~~, and amendments thereto, shall be based on the numbers of persons served by the program and shall be

made only to programs aimed at preventing child abuse and neglect or providing residential services or facilities to victims of child abuse or neglect. In order for programs to qualify for funding under this section, they must:

- (1) Meet the requirements of section 501(c) of the internal revenue code of 1986;
- (2) be registered and in good standing as a nonprofit corporation;
- (3) meet normally accepted standards for nonprofit organizations;
- (4) have trustees who represent the racial, ethnic and socioeconomic diversity of the county or counties served;
- (5) have received 50% or more of their funds from sources other than funds distributed through the fund, which other sources may be public or private and may include contributions of goods or services, including materials, commodities, transportation, office space or other types of facilities or personal services;
- (6) demonstrate ability to successfully administer programs;
- (7) make available an independent certified audit of the previous year's financial records;
- (8) have obtained appropriate licensing or certification, or both;
- (9) serve a significant number of residents of the county or counties served;
- (10) not unnecessarily duplicate services already adequately provided to county residents; and
- (11) agree to comply with reporting requirements of the attorney general.

The attorney general may adopt rules and regulations establishing additional standards for eligibility and accountability for grants made pursuant to this section.

(e) All moneys credited to the fund pursuant to K.S.A. 2013 Supp. 23-2510, and amendments thereto, shall be set aside to use as matching funds for meeting any federal requirement for the purpose of establishing child exchange and visitation centers as provided in K.S.A. 75-720, and amendments thereto. If no federal funds are made available to the state for the purpose of establishing such child exchange and visitation centers, then such moneys may be used as otherwise provided in this section. Only those moneys credited to the fund pursuant to K.S.A. 2013 Supp. 23-2510, and amendments thereto, may be used for such matching funds. No state general fund moneys shall be used for such matching funds.

Sec. 40. K.S.A. 2013 Supp. 75-5541 is hereby amended to read as follows: 75-5541. (a) Except as otherwise provided by this section, each classified employee, excluding any such employee who is on temporary appointment, ~~and each nonjudicial employee in the unclassified service under the Kansas civil service act in a state agency in the judicial branch of state government,~~ shall receive a bonus as provided by this section,

which shall be referred to as a longevity bonus, under the terms and conditions and subject to the limitations prescribed by this section.

(b) After June 30, 1989, any such officer or employee who has been employed by any agency, board or department within any branch of state government, whether or not the entire period of service is continuous with the same agency, board or department, shall be eligible to receive a longevity bonus upon completion of 120 months of state service. Length of service and service anniversary dates shall be determined pursuant to rules and regulations adopted by the secretary of administration.

(c) The amount of each longevity bonus payment shall be computed by multiplying \$40 by the number of full years of state service, not to exceed 25 years, rendered by such officer or employee as of the service anniversary date within such fiscal year.

(d) Each longevity bonus payment shall be included in the employee's regular pay warrant. The amount of the bonus shall be displayed separately on the warrant stub or advice.

(e) Longevity bonus payments shall be compensation, within the meaning of K.S.A. 74-4901 et seq., and amendments thereto, for all purposes under the Kansas public employees retirement system and shall be subject to applicable deductions for employee contributions notwithstanding the fact that payments are made annually. Longevity bonus payments shall be in addition to the regular earnings to which an officer or employee may become entitled or for which such employee may become eligible.

(f) The purpose of longevity pay is to recognize permanent employees who have provided experience and faithful long-term service to the state of Kansas in order to encourage officers and employees to remain in the service of the state. The provisions of this section shall apply to fiscal years commencing after June 30, 1989. The amendatory language of this section shall be construed to confirm that longevity pay is intended, and has been intended since its enactment, to be a bonus as defined in 29 C.F.R. § 778.208.

(g) In accordance with the provisions of K.S.A. 75-3706, and amendments thereto, the secretary of administration shall adopt rules and regulations to implement the provisions of this section with respect to officers and employees in the executive branch of state government. ~~The supreme court may adopt policies to implement the provisions of this section with respect to officers and employees who are nonjudicial personnel of state agencies in the judicial branch of state government.~~

(h) The provisions of this section shall not apply to any state officer or employee who is employed or re-employed as a state officer or employee on or after June 15, 2008.

Sec. 41. K.S.A. 2013 Supp. 75-5551 is hereby amended to read as follows: 75-5551. (a) The compensation program (compensation and ben-

efits opportunity and delivery) for state employees will be designed to support the mission of the various branches of government and the agencies and departments within those branches. The foundation of the compensation program is to attract and retain quality employees with competitive compensation based on relevant labor markets. The programs will be based upon principles of fairness and equity and will be administered with sound fiscal discipline.

(b) The compensation philosophy component statements are:

(1) The legislature will be accountable for the adoption of the compensation philosophy and framework. The executive branch through delegated authority from the governor to the department of administration will be accountable for the consistent administration of the program for classified employees. Agency heads will be accountable for proper administration of the program within their agencies. The chief justice, through delegated authority to the office of judicial administration will be accountable for the consistent administration of the program for judicial branch employees *subject to section 2, and amendments thereto*. The state board of regents, through delegated authority to the chief executive officer of each campus, will be accountable for the consistent administration of the program for higher education faculty and non-classified employees. The respective appointing authorities will have accountability for the consistent administration of compensation for non-classified employees.

(2) The compensation program will be based on consistent principles of fairness throughout the state, yet will be flexible to meet changing needs. This will allow for multiple pay plans to fit different needs and market variables for the different branches of government and within those branches.

(3) Establishing the value of compensation will be primarily based on establishing the appropriate market value of the job. For positions for which a market value cannot be readily identified, the value of compensation for those positions will be based on a fair, defensible and understandable method.

(4) While recognizing that service and tenure yields valued experience, pay delivery mechanisms will be based on a combination of achievement of performance objectives, recognition of differences in job content, acquisition and application of further skill and education and pay for the achievement of team/unit or department goals.

(5) All aspects of compensation (base salary, benefits, lump sum payments, allowances and other variable elements of compensation) will be considered as a total compensation package for state employees. The state's pay programs will utilize both fixed and variable compensation as well as non-cash reward and recognition programs.

(6) Total compensation, as defined above, will be targeted at a competitive level when compared to the appropriate labor markets to allow

the state to attract and retain the quality and quantity of employees needed to fulfill service commitments to its citizens.

(7) The state is committed to ensuring that its salary structures are up to date through the conduct of market surveys at regular intervals. There will be a planned approach to ensure that the classification structure and classification of employees is kept current.

(8) The compensation programs will reinforce a work culture and climate where employees are recognized and rewarded for their contribution. Any changes to compensation must be reasonable and take into consideration the needs of the state as an employer, the work culture afforded to the employees as public service providers and the citizens receiving services from the state.

(9) It is the intent of the legislature that longevity bonus payments shall not be considered as part of base pay.

Sec. 42. K.S.A. 2013 Supp. 75-7021 is hereby amended to read as follows: 75-7021. (a) There is hereby created in the state treasury the Kansas juvenile delinquency prevention trust fund. Money credited to the Kansas juvenile delinquency prevention trust fund ~~pursuant to K.S.A. 20-367, and amendments thereto, or by any other lawful means~~ shall be used solely for the purpose of making grants to further the purpose of juvenile justice reform, including rational prevention programs and programs for treatment and rehabilitation of juveniles and to further the partnership between state and local communities. Such treatment and rehabilitation programs should aim to combine accountability and sanctions with increasingly intensive treatment and rehabilitation services with an aim to provide greater public safety and provide intervention that will be uniform and consistent.

(b) All expenditures from the Kansas juvenile delinquency prevention trust fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner of juvenile justice or by a person or persons designated by the commissioner.

(c) The commissioner of juvenile justice may apply for, receive and accept money from any source for the purposes for which money in the Kansas juvenile delinquency prevention trust fund may be expended. Upon receipt of any such money, the commissioner shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas juvenile delinquency prevention trust fund.

(d) Grants made to programs pursuant to this section shall be based on the number of persons to be served and such other requirements as may be established by the Kansas advisory group on juvenile justice and delinquency prevention in guidelines established and promulgated to reg-

ulate grants made under authority of this section. The guidelines may include requirements for grant applications, organizational characteristics, reporting and auditing criteria and such other standards for eligibility and accountability as are deemed advisable by the Kansas advisory group on juvenile justice and delinquency prevention.

(e) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas juvenile delinquency prevention trust fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas juvenile delinquency prevention trust fund for the preceding month; and

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

(f) On and after the effective date of this act, the Kansas endowment for youth trust fund created by this section prior to amendment by this act is hereby redesignated as the Kansas juvenile delinquency prevention trust fund. On and after the effective date of this act, whenever the Kansas endowment for youth trust fund created by this section prior to amendment by this act, or words of like effect, is referred to or designated by a statute, contract or other document such reference or designation shall be deemed to apply to the Kansas juvenile delinquency prevention trust fund.

New Sec. 43. The provisions of this act are not severable. If any provision of this act is stayed or is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would not have enacted the remainder of such act without such stayed, invalid or unconstitutional provision.

Sec. 44. K.S.A. 5-517, 20-162, 20-166, 20-318, 20-319, 20-329, 20-342, 20-343, 20-345, 20-346a, 20-349, 20-361, 20-2909, 20-2911, 20-2914, 20-3011, 25-312a and 60-729 and K.S.A. 2013 Supp. 20-1a04, 20-362, 20-367, 21-6614, 21-6614d, 22-2410, 28-170, 28-172a, 28-172b, 28-177, 28-178, 28-179, 38-2312, 38-2312c, 59-104, 60-256, 60-2001, 60-2001b, 61-2704, 74-7325, 74-7334, 75-5541, 75-5551 and 75-7021 are hereby repealed.

Sec. 45. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 17, 2014.

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## CHAPTER 83

Substitute for HOUSE BILL No. 2681  
(Amended by Chapters 117 and 129)

AN ACT concerning veterans; abolishing the Kansas commission on veterans affairs; creating the Kansas commission on veterans affairs office within the executive branch of government; transferring certain powers, duties and functions; providing the VCAP advisory board; amending K.S.A. 73-209, 73-210, 73-1211, 73-1222, 73-1223, 73-1224, 73-1225, 73-1226, 73-1227, 73-1229, 73-1230, 73-1231, 73-1232, 76-1904, 76-1904a, 76-1908, 76-1927, 76-1928, 76-1929, 76-1931, 76-1932, 76-1935, 76-1935a, 76-1936, 76-1941, 76-1951, 76-1952, 76-1954, 76-1955, 76-1956, 76-1957 and 76-1958; K.S.A. 2012 Supp. 74-2012, as amended by section 3 of chapter 74 of the 2013 Session Laws of Kansas and K.S.A. 2013 Supp. 39-923, 65-1732, 65-2418, 73-1209, 73-1210a, 73-1217, 73-1218, 73-1233, 73-1234, 73-1235, 73-1236, 73-1238, 73-1239, 73-1241, 73-1242, 73-1243, 75-3370, 75-4362, 76-6b05, 76-1906, 76-1939, 76-1953 and 79-3221k and repealing the existing sections; also repealing K.S.A. 73-1207, 73-1208b, 73-1208c and 73-1220 and K.S.A. 2013 Supp. 73-1208a and 73-1219.

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

New Section 1. (a) On July 1, 2014, the Kansas commission on veterans affairs provided for by K.S.A. 73-1208a, prior to its repeal, shall be and is hereby abolished.

(b) On July 1, 2014, all of the powers, duties and functions of the Kansas commission on veterans affairs are hereby transferred to and conferred and imposed upon the Kansas commission on veterans affairs office.

(c) The Kansas commission on veterans affairs office shall be the successor in every way to the powers, duties and functions of the Kansas commission on veterans affairs in which the same were vested prior to July 1, 2014. Every act performed in the exercise of such powers, duties and functions by or under the authority of the Kansas commission on veterans affairs office shall be deemed to have the same force and effect as if performed by the Kansas commission on veterans affairs in which the authority to perform such act was vested prior to July 1, 2014. The Kansas commission on veterans affairs office shall be a continuation of the Kansas commission on veterans affairs abolished by this section.

(d) All rules and regulations and all orders or directives of the Kansas commission on veterans affairs, or of any persons authorized by the commission to issue orders or directives, in existence on July 1, 2014, shall continue to be effective and shall be deemed to be the rules and regulations and orders or directives of the Kansas commission on veterans affairs office until revised, amended, revoked or nullified pursuant to law.

(e) On and after July 1, 2014, whenever the Kansas commission on veterans affairs, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to mean and apply to the Kansas commission on veterans affairs office.

New Sec. 2. (a) There is hereby established within the executive

branch of government the Kansas commission on veterans affairs office, which shall be administered under the direction and supervision of the director of the Kansas commission on veterans affairs office. The director of the Kansas commission on veterans affairs office, who shall be a veteran, shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as the director of the Kansas commission on veterans affairs office shall exercise any power, duty or function as director until confirmed by the senate. Except as otherwise provided by this section, the director of the Kansas commission on veterans affairs office shall be in the unclassified service under the Kansas civil service act, shall serve at the pleasure of the governor and shall receive an annual salary fixed by the governor.

(b) All budgeting, purchasing and related management functions of the Kansas veterans affairs office, shall be administered under the direction and supervision of the director of the Kansas commission on veterans affairs office.

(c) All vouchers for expenditures from appropriations to or for the Kansas commission on veterans affairs office shall be approved by the director of the Kansas commission on veterans affairs office or a person or persons designated by the director for such purpose.

(d) The provisions of the Kansas governmental operations accountability law apply to the Kansas commission on veterans affairs office, and the office is subject to audit, review and evaluation under such law.

New Sec. 3. The Kansas commission on veterans affairs office shall be responsible for carrying out the general policies of the governor and the director of the Kansas commission on veterans affairs office by: (a) Affording and furnishing to veterans, and relatives and dependents of such veterans, information, advice, direction and assistance through the coordination of programs and services in the fields of education, health, vocational guidance and placement, mental care and economic security; and (b) managing, operating and controlling the Kansas soldiers' home and the Kansas veterans' home.

Sec. 4. K.S.A. 2013 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by the secretary of aging.

(2) "Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by

blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(3) “Nursing facility for mental health” means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

(4) “Intermediate care facility for people with intellectual disability” means any place or facility operating 24 hours a day, seven days a week, caring for four or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by intellectual disability or related conditions, need services to compensate for activities of daily living limitations.

(5) “Assisted living facility” means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week, for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) “Residential health care facility” means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services provided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(7) “Home plus” means any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need

of care is approved for placement by the secretary of the department of social and rehabilitation services, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided to residents shall be determined by preparation of the staff and rules and regulations developed by the department on aging. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous. Any home plus that provides care for more than eight individuals after the effective date of this act shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.

(8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

(9) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of or assistance with activities of daily living.

(10) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(11) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

(12) "Supervised nursing care" means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.

(13) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(14) “Person” means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.

(15) “Operate an adult care home” means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word “own” and the word “lease” shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(16) “Licensing agency” means the secretary of aging.

(17) “Skilled nursing home” means a nursing facility.

(18) “Intermediate nursing care home” means a nursing facility.

(19) “Apartment” means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.

(20) “Individual living unit” means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.

(21) “Operator” means an individual who operates an assisted living facility or residential health care facility with fewer than 61 residents, a home plus or adult day care facility and has completed a course approved by the secretary of health and environment on principles of assisted living and has successfully passed an examination approved by the secretary of health and environment on principles of assisted living and such other requirements as may be established by the secretary of health and environment by rules and regulations.

(22) “Activities of daily living” means those personal, functional activities required by an individual for continued well-being, including but not limited to eating, nutrition, dressing, personal hygiene, mobility and toileting.

(23) “Personal care” means care provided by staff to assist an individual with, or to perform activities of daily living.

(24) “Functional impairment” means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.

(25) “Kitchen” means a food preparation area that includes a sink, refrigerator and a microwave oven or stove.

(26) The term “intermediate personal care home” for purposes of those individuals applying for or receiving veterans’ benefits means residential health care facility.

(27) “Paid nutrition assistant” means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42 C.F.R. § 483.160 and paragraph (h) of 42 C.F.R. § 483.35, and who

provides such assistance under the supervision of a registered professional or licensed practical nurse.

(28) “Medicaid program” means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.

(b) The term “adult care home” shall not include institutions operated by federal or state governments, except institutions operated by the *director of the Kansas commission on veterans affairs office*, hospitals or institutions for the treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices which are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section 418.1 et seq., and amendments thereto, and which provide services only to hospice patients.

(c) Nursing facilities in existence on the effective date of this act changing licensure categories to become residential health care facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.

(d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.

(e) Nursing facilities with less than 60 beds converting a portion of the facility to residential health care shall have the option of licensing for residential health care for less than six individuals but not less than 10% of the total bed count within a contiguous portion of the facility.

(f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. 5. K.S.A. 2013 Supp. 65-1732 is hereby amended to read as follows: 65-1732. (a) A funeral establishment, branch establishment or crematory which has possession of the cremated remains of a dead human body may dispose of the cremated remains, if:

(1) Such cremated remains have not been claimed for at least 90 days from the time of cremation;

(2) the funeral establishment, branch establishment or crematory has sent a notice by certified mail, return receipt requested, to the last known

address of the authorizing agent as defined under K.S.A. 65-1760, and amendments thereto. Such notice shall state that such remains will be disposed of in accordance with the provisions of this section unless claimed within 30 days of the date such notice is sent; and

(3) the funeral establishment, branch establishment or crematory has not received any claim on the cremated remains for at least 30 days from the date that such notice was sent.

(b) Such disposal under subsection (a) shall include burial by placing the remains in a church or cemetery plot, scatter garden, pond, or columbarium; relinquishing possession of the cremated remains of veterans to the *director of the Kansas commission of veterans affairs office, or the director's designee*, or a national cemetery in accordance with the provisions of subsection (c); or otherwise disposing of the remains as provided by rule and regulation of the board of mortuary arts. Disposition may include the commingling of the cremated remains with other cremated remains and thus the cremated remains would not be recoverable.

(c) (1) A funeral establishment, branch establishment or crematory which has held in its possession cremated remains for more than 90 days from the date of cremation and has provided notice pursuant to subsection (a) and the cremated remains remain unclaimed may, in accordance with the provisions of this section, determine if such cremated remains are those of a veteran, and if so, may dispose of such remains as provided in this section.

(2) Notwithstanding any law or rules and regulations to the contrary, nothing in this section shall prevent a funeral establishment, branch establishment or crematory from sharing information with the United States department of veterans affairs or the Kansas commission on veterans affairs *office* for the purpose of determining whether the cremated remains are those of a veteran. A funeral establishment, branch establishment, crematory, funeral director, assistant funeral director or crematory operator shall be discharged from any legal obligations or liability with regard to the releasing or sharing of information with such entities.

(3) Should a funeral establishment, branch establishment or crematory ascertain the cremated remains in its possession are those of a veteran and they are unclaimed cremated remains to be disposed of pursuant to provisions of subsection (a), the funeral establishment, branch establishment or crematory may relinquish possession of the cremated remains to the *director of the Kansas commission on veterans affairs office, or the director's designee*, or a national cemetery for disposition. Disposition shall be by placement of cremated remains in a tomb, mausoleum, crypt, niche in a columbarium or burial in a cemetery but shall not include the scattering of cremated remains.

(d) Nothing in this section shall require a funeral establishment, branch establishment or crematory to determine or seek others to determine that an individual's cremated remains are those of a veteran if the

funeral establishment, branch establishment or crematory was informed by the person in control of the disposition that: (1) Such individual was not a veteran; or (2) such individual did not desire any funeral or burial-related services or ceremonies recognizing service as a veteran.

(e) The funeral establishment, branch establishment, crematory, funeral director, assistant funeral director or crematory operator, upon disposing of cremated remains in accordance with the provisions of this section, shall be held harmless for any costs or damages, except if there is gross negligence or willful misconduct, and shall be discharged from any legal obligation or liability concerning the cremated remains.

Sec. 6. K.S.A. 2013 Supp. 65-2418 is hereby amended to read as follows: 65-2418. (a) (1) The secretary shall fix and charge by rules and regulations the fees to be paid for certified copies or abstracts of certificates or for search of the files for birth, death, fetal death, marriage or divorce records when no certified copy or abstract is made. Except as otherwise provided in this section, the secretary shall remit all moneys received by or for the secretary from fees, charges or penalties, under the uniform vital statistics act, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the civil registration and health statistics fee fund created by K.S.A. 2013 Supp. 65-2418e, and amendments thereto.

(2) The secretary shall not charge any fee for a certified copy of a certificate or abstract or for a search of the files or records if the certificate, abstract or search is requested by a person who exhibits correspondence from the United States department of veterans affairs or the Kansas commission on veterans affairs *office* which indicates that the person is applying for benefits from the United States department of veterans affairs and that such person needs the requested information to obtain such benefits, except that, for a second or subsequent certified copy of a certificate, abstract or search of the files requested by the person, the usual fee shall be charged. The secretary may provide by rules and regulations for exemptions from such fees.

(3) The secretary shall not charge or accept any fee for a certified copy of a birth certificate if the certificate is requested by any person who is 17 years of age or older for purposes of voting if the applicant lacks the identification required by K.S.A. 25-2908(h), and amendments thereto, or to meet the voter registration requirements of K.S.A. 25-2309, and amendments thereto. For voter registration purposes, an applicant for registration shall swear under oath: (1) That such person plans to register to vote in Kansas; and (2) that such person does not possess any of the documents that constitute evidence of United States citizenship under K.S.A. 25-2309(l), and amendments thereto. The affidavit shall specifi-

cally list the documents that constitute evidence of United States citizenship under K.S.A. 25-2309(1), and amendments thereto. The secretary shall adopt rules and regulations in order to implement the provisions of this subsection.

(4) Upon receipt of any such remittance of a fee for a certified copy of a birth certificate or abstract, \$3 of each such fee for the first copy of a birth certificate or abstract and \$1 of each such fee for each additional copy of the same birth certificate or abstract requested at the same time shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the permanent families account of the family and children investment fund created by K.S.A. 38-1808, and amendments thereto. The balance of the money received for a fee for a certified copy of a birth certificate or abstract shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the civil registration and health statistics fee fund created under this act.

(5) Upon receipt of any such remittance of a fee for a certified copy of a death certificate or abstract, \$4 of each such fee for the first certified copy of a death certificate or abstract and \$2 of each such fee for each additional copy of the same death certificate or abstract requested at the same time shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the district coroners fund created by K.S.A. 22a-245, and amendments thereto. The balance of the money received for a fee for a certified copy of a death certificate or abstract shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the civil registration and health statistics fee fund created by K.S.A. 2013 Supp. 65-2418e, and amendments thereto.

(b) Subject to K.S.A. 65-2415, and amendments thereto, the national office of vital statistics may be furnished copies or data it requires for national statistics. The state shall be reimbursed for the cost of furnishing the data. The data shall not be used for other than statistical purposes by the national office of vital statistics unless so authorized by the state registrar of vital statistics.

Sec. 7. K.S.A. 73-209 is hereby amended to read as follows: 73-209. (a) On submission to the adjutant general of an original discharge or other official record of military service of any soldier, sailor or marine of the United States, or of a copy of such discharge or official record of military

service certified to by a city, county or state official as being a true copy of original document, the adjutant general shall place such record on file in the adjutant general's office. If original documents are submitted, the adjutant general shall cause true copies of such original documents to be made and shall file the copies in the adjutant general's office and the originals shall be returned to the person who submitted them.

(b) Upon request of a soldier, sailor or marine whose records of military service have been filed in the adjutant general's office, the adjutant general shall cause to be furnished a certificate of military service in accordance with such records. The adjutant general shall not charge any fee for the certificate if the certificate is requested by a person who exhibits correspondence from the United States veterans administration or the Kansas commission on ~~veterans'~~ *veterans* affairs office which indicates that the person is applying for benefits from the United States veterans administration and that such person needs the certificate to obtain such benefits.

(c) The adjutant general shall transfer to the state archives of the Kansas state historical society for permanent retention any records of military service on file in the adjutant general's office, in accordance with the records retention and disposition schedule for such records approved by the state records board.

Sec. 8. K.S.A. 73-210 is hereby amended to read as follows: 73-210. No city, county or state official shall charge a fee for certifying to the correctness of a true copy of an original discharge or other official record of military service of any soldier, sailor or marine of the United States, except that:

(a) The adjutant general may charge a fee unless the copy is requested by a person who exhibits correspondence from the United States veterans administration or the Kansas commission on ~~veterans'~~ *veterans* affairs office which indicates that the person is applying for benefits from the United States veterans administration and that such person needs the copy to obtain such benefits; and

(b) a register of deeds of a county may charge a fee for copies in excess of the number provided for by K.S.A. 73-210a, and amendments thereto.

Sec. 9. K.S.A. 2013 Supp. 73-1209 is hereby amended to read as follows: 73-1209. The ~~executive~~ director of the Kansas ~~veterans'~~ commission on *veterans affairs office*, in accordance with general policies ~~established by the commission~~ *directed by the governor*, shall:

~~(1)~~(a) Collect data and information as to the facilities, benefits and services now or hereafter available to veterans, and ~~their~~ relatives and dependents of *such veterans*, and furnish such information to veterans, and ~~their~~ relatives and dependents of *such veterans*, and local service officers of veterans' organizations.

~~(2)~~(b) Prepare plans for a comprehensive statewide veterans' service program.

~~(3)~~(c) Coordinate the program of state agencies which may properly be utilized in the administration of various aspects of the problems of veterans, and relatives and dependents of veterans, such as the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services, the department of labor, the state board of education, the board of regents and any other state office, department, or board or ~~commission~~ furnishing service to veterans or ~~their~~ relatives or dependents of *such veterans*.

~~(4)~~(d) Provide a central contact between federal and state agencies dealing with the problems of veterans and ~~their~~ relatives and dependents of *such veterans*.

~~(5)~~(e) Maintain records of cases handled by the ~~executive~~ director which shall show at least the following information: ~~(a)~~(1) The name of the veteran; ~~(b)~~(2) claim or case number of the veteran; and ~~(c)~~(3) amount of monthly benefit received by the veteran, so as to facilitate the necessary interchange of case histories among state administrative agencies and provide a clearinghouse of information.

~~(6)~~(f) Provide such services to veterans and ~~their~~ relatives and dependents of *such veterans* as are not otherwise offered by federal agencies.

~~(7)~~(g) Provide a central agency to which veterans, and ~~their~~ relatives and dependents of *such veterans*, may turn for information and assistance.

~~(8)~~(h) Provide and maintain such field services as shall be necessary to properly care for the needs of veterans, and ~~their~~ relatives and dependents of *such veterans*, which shall not be operated in connection with the ~~social and rehabilitation services~~ *Kansas department for aging and disability services*.

(i) *Adopt, amend or revoke any rules and regulations necessary to carry out the provisions of article 12 of chapter 73 and article 19 of chapter 76 of the Kansas Statutes Annotated, and amendments thereto.*

(j) *Appoint and oversee the superintendents of the Kansas soldiers' home and Kansas veterans' home.*

(k) *Designate persons who shall be in charge of the member funds at the Kansas soldiers' home under K.S.A. 76-1935, and amendments thereto, and the Kansas veterans' home under K.S.A. 76-1956, and amendments thereto.*

(l) *Appoint and oversee the deputy director of veterans services pursuant to K.S.A. 73-1234, and amendments thereto.*

(m) (1) *Annually prepare and submit a written report to the house committee on veterans, military and homeland security and to the governor, providing the following:*

(A) *Any progress made by the Kansas commission on veterans affairs office and its director in response to any recommendations provided to*

*such office in the preceding fiscal year by the legislative division of post audit;*

*(B) information on the current financial control practices implemented by the Kansas commission on veterans affairs office for the Kansas soldiers' home and the Kansas veterans' home, including, but not limited to, the current policies and procedures at both facilities;*

*(C) information on the current residential care services provided for veterans in the Kansas soldiers' home and the Kansas veterans' home;*

*(D) recommendations for legislation necessary to ensure that the needs of the veterans in Kansas are met; and*

*(E) any other information deemed necessary.*

*(2) The director of the Kansas commission on veterans affairs office shall submit the report on or before the first day of the legislative session in 2015, and each year thereafter.*

Sec. 10. K.S.A. 2013 Supp. 73-1210a is hereby amended to read as follows: 73-1210a. (a) Except as otherwise provided by law, and subject to the Kansas civil service act, the ~~executive~~ director of the Kansas commission on veterans affairs *office* shall appoint:

*(1) ~~such~~ Subordinate officers and employees, subject to the approval of the ~~commission~~ governor, as are necessary to enable the ~~commission~~ director to exercise or perform ~~its~~ the functions, powers and duties pursuant to the provisions of article 12 of chapter 73 of the Kansas Statutes Annotated, and amendments thereto;*

*(2) the superintendent of the Kansas soldiers' home;*

*(3) the superintendent of the Kansas veterans' home; and*

*(4) the deputy director of veterans services pursuant to K.S.A. 73-1234, and amendments thereto.*

*(b) Upon the commencement of the interview process, every candidate for a position in ~~a~~ the Kansas commission on veterans affairs office that interviews claimants and provides information advice and counseling to veterans, surviving spouses, their dependents concerning compensation, pension, education, vocational rehabilitation, insurance, hospitalization, outpatient care, home loans, housing, tax exemptions, burial benefits and other benefits to which they may be entitled, or any other sensitive position, as determined by the ~~executive~~ director shall be given a written notice that a criminal history records check is required. The *director of the* Kansas commission on veterans affairs *office* shall require such candidates to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the candidate and to determine whether the candidate has a record of criminal history in this state or another jurisdiction. The *director of the* Kansas commission on veterans affairs *office* shall submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and*

state law enforcement officers and agencies shall assist the *director of the Kansas commission on veterans affairs office* in taking and processing of fingerprints of candidates. If the criminal history record information reveals any conviction of crimes of dishonesty or violence, such conviction may be used to disqualify a candidate for any position within the *director of the Kansas commission on veterans affairs office*. If the criminal history record information is used to disqualify a candidate, the candidate shall be informed in writing of that decision.

(c) Persons employed by the Kansas soldiers' home and Kansas veterans' home shall be excluded from the provisions of subsection (b). No person who has been employed by the *director of the Kansas commission on veterans affairs office* for five consecutive years immediately prior to the effective date of this act shall be subject to the provisions of subsection (b) while employed by the *director of the Kansas commission on veterans affairs office*.

~~(d) All such subordinate officers and employees shall be within the classified service under the Kansas civil service act, shall perform such duties and exercise such powers as the Kansas commission on veterans affairs and the executive director of the commission may prescribe and such duties and powers as are designated by law, and shall act for and exercise the powers of the commission and the executive director to the extent authority to do so is delegated by such commission or director.~~

~~(e)-(d) (1) Except as otherwise provided by law, and subject to the Kansas civil service act, the executive director of the Kansas commission on veterans affairs office shall appoint such subordinate officers and employees, a superintendent of the Kansas soldiers' home and a superintendent of the Kansas veterans' home, subject to the approval of the Kansas commission on veterans affairs, as shall be necessary to enable the director of the Kansas commission on veterans affairs office to exercise or perform its functions, powers and duties pursuant to the provisions of article 19 of chapter 76 of the Kansas Statutes Annotated, and amendments thereto.~~

(2) (A) ~~All such subordinate officers and employees shall be within the classified service under the Kansas civil service act, shall perform such duties and exercise such powers as the commission, the executive director of the Kansas commission on veterans affairs office, the superintendent of the Kansas soldiers' home and the superintendent of the Kansas veterans' home may prescribe and such duties and powers as are designated by law, and shall act for and exercise the powers of the commission, the executive director of the Kansas commission, the superintendent of the Kansas soldiers' home and the superintendent of the Kansas veterans' home to the extent authority to do so is delegated by such commission, executive director or superintendent on veterans affairs office.~~

(B) *The superintendent of the Kansas soldiers' home shall be in the unclassified service under the Kansas civil service act and shall receive an*

*annual salary fixed by the director of the Kansas commission on veterans affairs office, with the approval of the governor. The superintendent of the Kansas soldiers' home shall perform such duties and exercise such powers as the director may prescribe, and such duties and powers as are prescribed by law.*

*(C) The superintendent of the Kansas veterans' home shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the director of the Kansas commission on veterans affairs office, with the approval of the governor. The superintendent of the Kansas veterans' home shall perform such duties and exercise such powers as the director may prescribe, and such duties and powers as are prescribed by law.*

~~(f)~~(e) Any veterans service representative appointed by the executive director of the Kansas commission on veterans affairs office shall be an honorably discharged veteran or retired from the United States armed forces. No veterans service representative of the Kansas commission on veterans affairs office shall take a power of attorney in the name of the director of the Kansas commission on veterans affairs office. Nothing in this act shall be construed to prohibit any such veterans service representative from assisting any veteran with any claim in which a power of attorney is not required.

~~Nothing in this subsection shall be construed to affect the status, rights or benefits of any officer or employee of the Kansas commission on veterans affairs employed by such commission on the effective date of this act.~~

For the purpose of this subsection, "veterans service representative" means any officer or employee appointed pursuant to this section whose primary duties include:

(1) Assisting veterans and their dependents in securing benefits from the federal government and the state of Kansas.

(2) Providing information and assistance to veterans and dependents in obtaining special services and benefits based on knowledge of federal and state laws, policies and regulations pertaining to veterans benefits and services.

(3) Providing assistance to veterans service organizations participating in the veterans claims assistance program.

~~(g)~~(f) Nothing in this act shall be construed to affect the status, rights or benefits of any officer or employee of the Kansas veterans' commission on veterans affairs under K.S.A. 73-1208a, prior to its repeal, employed by such commission on the effective date of this act July 1, 2014.

Sec. 11. K.S.A. 73-1211 is hereby amended to read as follows: 73-1211. All claims filed with the federal veterans' administration by the director of the Kansas veterans' commission on veterans affairs office shall be prosecuted by an accredited representative of one of the participating

veterans' organizations. No employee of any veterans' organization shall participate in or receive any funds hereinafter appropriated or made available to the *director of the Kansas-veterans' commission on veterans affairs office* unless such employing veterans' organization shall prosecute any and all claims to the federal veterans' administration that are referred to them or their employees by the *director of the Kansas-veterans' commission on veterans affairs office*.

Sec. 12. K.S.A. 2013 Supp. 73-1217 is hereby amended to read as follows: 73-1217. The board of trustees of every community college, the board of regents of Washburn university of Topeka, the governing board of every technical college and the governing body of every other institution of post-high school education which is supported by any state moneys shall provide for enrollment without charge of tuition or fees for any dependent of a prisoner of war or a person missing in action, so long as such dependent is eligible, but not to exceed 12 semesters of instruction or the equivalent thereof at all such institutions for any person if the person started such instruction prior to July 1, 2005, or 10 semesters if the person started such instruction on or after July 1, 2005. Once a person qualifies as a dependent under the terms and provisions of this act, no occurrence, such as the return of the dependent's parent or such parent's reported death, shall disqualify the dependent from the provisions or benefits of this act. The state board of regents, the board of trustees of any community college, or the governing body of any other institution which grants tuition for fees without charge to a dependent under this act may file a claim with the *director of the Kansas commission on veterans affairs office* for reimbursement of the amount of such tuition or fees. The *director of the Kansas commission on veterans affairs office* shall administer this act and qualifications of persons as dependents shall be determined by such ~~commission~~ *director*. Such ~~commission~~ *director* may adopt rules and regulations making more specific the definitions herein contained and for the administration of this act.

Sec. 13. K.S.A. 2013 Supp. 73-1218 is hereby amended to read as follows: 73-1218. The state board of regents, the board of trustees of every community college, the board of regents of Washburn university of Topeka, the governing board of every technical college and the governing body of every other institution of post-high school education which is supported by any state moneys shall provide for enrollment without charge of tuition or fees for any dependent of a person who died as the result of a service-connected disability suffered during the Vietnam conflict as a result of such conflict, so long as such dependent is eligible, but not to exceed 12 semesters of instruction or the equivalent thereof at all such institutions for any person. Once a person qualifies as a dependent under the terms and provisions of this act, no occurrence, such as the return of the dependent's father or mother, shall disqualify the dependent

from the provisions or benefits of this act. The governing body of every institution of post-high school education which is supported by any state moneys and which grants tuition or fees without charge to a dependent under this act may file a claim with the *director of the Kansas commission on veterans affairs office* for reimbursement of the amount of such tuition or fees. The *director of the Kansas commission on veterans affairs office* shall administer this act and the qualification of persons as dependents shall be determined by such ~~commission~~ *director*. Such ~~commission~~ *director* may adopt rules and regulations making more specific the definition herein contained and for the administration of this act.

“Dependent” as used in this act shall mean any child born to, legally adopted by, or in the legal custody of a person who was a resident of the state of Kansas at the time such person entered service of the United States armed forces and who, while serving in ~~said~~ the U.S. armed forces in the geographical area of the Vietnam conflict, has been declared to be a person who died as the result of a service-connected disability suffered during the Vietnam conflict as a result of such conflict.

Sec. 14. K.S.A. 73-1222 is hereby amended to read as follows: 73-1222. As used in K.S.A. 73-1221 through 73-1231, and amendments thereto, unless the context clearly indicates otherwise:

(a) “Birth defect” means any physical or mental abnormality or condition, including any susceptibility to any illness or condition other than normal childhood illnesses or conditions.

(b) “Board” means the Persian Gulf War veterans health initiative board established by K.S.A. 73-1223, and amendments thereto.

~~(c)~~ “Commission” means the Kansas commission on veterans affairs.

~~(d)~~(c) “Director” means the ~~executive~~ director of the Kansas commission on veterans affairs *office*.

~~(e)~~(d) “Gulf War syndrome” means the wide range of physical and mental conditions, problems and illnesses that are connected with service in the armed forces of the United States during and in the area of operations of the Persian Gulf War.

~~(f)~~(e) “Veteran” means a person who is a resident of Kansas who was a member of the armed forces of the United States of America and who served in such armed forces in the area of operations of the Persian Gulf War during the Persian Gulf War or thereafter regardless of whether such person is still actively serving in the armed forces or reserve.

Sec. 15. K.S.A. 73-1223 is hereby amended to read as follows: 73-1223. (a) There is hereby established with the ~~commission~~ *Kansas commission on veterans affairs office* an advisory board known to be the Persian Gulf War veterans health initiative board. The board shall be advisory to the ~~commission~~ *director* in the implementation and administration of this act.

(b) The board shall consist of nine members appointed as follows:

(1) At least three members shall be veterans. The director shall notify the state level unit of the disabled American veterans, the veterans of foreign wars of the United States and the American legion and request a list of three nominations of veterans from each such veterans' organization. The governor shall appoint one veteran as a member from each list.

(2) One member shall be qualified from each of the medical specializations of epidemiology, toxicology and genetics. One member shall be qualified in one of the behavioral sciences in the ~~specialty~~ *specialty* area of family dynamics. The director shall notify one or more professional societies or associations which represent the medical or behavioral science specialty area required and request a list of three nominations from that specialty area. ~~The commission, of which the director~~ shall appoint one member of the board from each list.

(3) Two legislators, one from each house, shall be appointed to the board with the speaker of the house of representatives and president of the senate each appointing a member. One legislator shall be a member of the democratic party and one legislator shall be a member of the republican party.

(c) Within 90 days of the effective date of this act, the governor, the ~~commission~~ *director*, the speaker of the house of representatives and the president of the senate shall appoint the initial members of the board. Of the initial appointments to the board by the governor, one shall be for a term of one year, one shall be for a term of two years and one shall be for a term ending three years after the date of the initial appointment. Of the initial appointments to the board by the ~~commission~~ *director*, two shall be for a term of one year, one shall be for a term of two years and one shall be for a term ending three years after the date of the initial appointment. After the initial appointments, terms of office of the members appointed by the governor or the ~~commission~~ *director* shall be for three years, but no person shall be appointed for more than two successive three-year terms. The term of office of each member appointed by the speaker of the house of representatives or the president of the senate shall end on the first day of the regular session of the legislature which commences in the first odd-numbered year occurring after the year such member was appointed.

(d) Each member of the board shall serve until a successor is appointed and qualified. Whenever a vacancy occurs in the membership of the board for any reason other than the expiration of a member's term of office, the governor, the ~~commission~~ *director*, speaker of the house of representatives or president of the senate shall appoint a successor of like qualifications to fill the unexpired term in accordance with this section. In the case of any vacancy occurring in the position of a board member who was appointed from a list of nominations submitted by a veterans' organization, the governor shall notify that veterans' organization of the vacant position and request a list of three nominations of veterans from

which the governor shall appoint a successor to the board. In the case of any vacancy occurring in the position of a board member who is qualified in one of the ~~specialty~~ *specialty* areas listed in subsection (b)(3) after the initial appointments, the director shall notify one or more professional societies or associations which represent the medical or behavioral science ~~specialty~~ *specialty* required for the vacant position and request a list of three nominations from that ~~specialty~~ *specialty* area from which the ~~commission~~ *director* shall appoint a successor to the board.

(e) Annually, the board shall elect a chairperson, vice-chairperson and secretary from among its members and shall meet at least four times each year at the call of the chairperson.

(f) The members of the board attending meetings of the board or attending a subcommittee meeting thereof authorized by the board shall receive no compensation for their services but shall be paid subsistence allowances, mileage and other expenses as provided in subsections (b), (c) and (d) of K.S.A. 75-3223, and amendments thereto.

Sec. 16. K.S.A. 73-1224 is hereby amended to read as follows: 73-1224. (a) ~~The commission~~ *director* shall develop comprehensive surveys, or adopt one or more existing surveys, to be conducted to determine and study the physical and mental conditions, problems and illnesses, including birth defects, as well as the employment, social, emotional and family problems experienced by veterans, their spouses and family members since the veteran's return to Kansas and by any other persons residing in Kansas who are suffering from Gulf War syndrome.

(b) ~~The commission~~ *director* shall develop or adopt the surveys within the first four months after the effective date of this act. ~~The commission~~ *director* shall administer the surveys and review the completed surveys with the board. ~~The commission~~ *director* shall compile the results of the surveys and develop recommendations for the legislature based thereon. The director shall report the results to appropriate federal agencies and shall request additional assistance for veterans commensurate with the director's duties under K.S.A. 73-1209, and amendments thereto.

(c) The aggregate amount expended for the development and administration of surveys and studies set out under this section and for board expenses, including the position established by K.S.A. 73-1225, and amendments thereto, shall not exceed \$100,000 per fiscal year.

(d) ~~The commission~~ *director* shall request the different media, including radio, television and newspaper, to make public service announcements publicizing information on the Persian Gulf War surveys and inform Kansans of the health problems identified and where help is available. The public service announcements should be published no less than four times a year.

Sec. 17. K.S.A. 73-1225 is hereby amended to read as follows: 73-1225. There is hereby established with the *Kansas commission on vet-*

*erans affairs office* a full-time position dedicated to seeking and applying for grants and other moneys to fund activities under this act, to assist in the preparation and administration of surveys under this act, to promote programs and activities designed to assist persons affected by Gulf War syndrome to receive the help they need and to perform such other duties as the ~~chairperson of the commission~~ *director* may prescribe. Within 90 days of the effective date of this act, the ~~commission~~ *director* shall appoint a qualified individual to this position.

Sec. 18. K.S.A. 73-1226 is hereby amended to read as follows: 73-1226. (a) The ~~commission~~ *director* shall request that the department of health and environment contact families of any children born after August 1, 1991, who are on any state birth defect list maintained by the department, to inform the families of the availability of the survey and the registry if either parent served in the Persian Gulf War. If the family voluntarily participates in the survey, the veteran's child's name shall be listed in the state Persian Gulf War registry.

(b) The ~~commission~~ *director* shall determine the appropriate health programs and the confidential mechanisms that shall be utilized to ask participants in such programs whether they are Persian Gulf War veterans, and if so, offer the veterans voluntary participation in the survey under K.S.A. 73-1224, and amendments thereto.

(c) The ~~commission~~ *director* shall establish and maintain a state Persian Gulf War registry containing the names of veterans, their spouses, family members and other persons in Kansas who have been affected by Gulf War syndrome.

(d) The ~~commission~~ *director* shall inform veterans of any state and federal programs available to meet the veterans' needs.

(e) Any person who in good faith provides information to the ~~commission~~ *director* under the provisions of this section shall be immune from civil or criminal liability therefor.

Sec. 19. K.S.A. 73-1227 is hereby amended to read as follows: 73-1227. Subject to funds available, the ~~commission~~ *director* shall conduct a fiscal impact study, aimed at identifying the annual budgetary impact of Gulf War syndrome on Kansas in terms of increased costs of education, medical coverage, correction of birth defects and other expenses identified through the results of the surveys conducted under K.S.A. 73-1224, and amendments thereto.

Sec. 20. K.S.A. 73-1229 is hereby amended to read as follows: 73-1229. The ~~commission~~ *director* shall adopt rules and regulations to implement and administer the provisions of K.S.A. 73-1221 through 73-1231, and amendments thereto.

Sec. 21. K.S.A. 73-1230 is hereby amended to read as follows: 73-1230. The ~~Kansas commission on veterans affairs~~ *director* shall cooperate and share information with appropriate state and federal agencies as nec-

essary for the purposes of this act to aid veterans and other persons in obtaining aid and relief from the effects of Gulf War syndrome. Such cooperation shall include reporting the survey statistics to appropriate federal agencies to bring issues to the notice of appropriate agencies.

Sec. 22. K.S.A. 73-1231 is hereby amended to read as follows: 73-1231. There is hereby established in the state treasury the Persian Gulf War veterans health initiative fund which shall be administered by the ~~Kansas commission on veterans affairs~~ *director*. All moneys received from any grants from federal or other nonstate sources, from contributions or from any other source for the purpose of financing the activities of the board or the development or administration of the surveys developed by the board under this act, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Persian Gulf War veterans health initiative fund. All expenditures from the Persian Gulf War veterans health initiative fund shall be for the purposes of financing the activities of the ~~commission~~ *director* for the implementation and administration, including the activities of the board and the development and administration of the surveys under this act, and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the *director of the Kansas commission on veterans affairs office* or the ~~commission's~~ *director's* designee.

Sec. 23. K.S.A. 73-1232 is hereby amended to read as follows: 73-1232. (a) The *director of the Kansas commission* ~~of on veterans affairs office~~ is hereby authorized to establish and maintain a state system of veterans cemeteries. For the purposes of such system, the ~~commission~~ *director* may request, accept and take title to any grants or bequests or other donations of moneys, other personal property, real property or other assistance from any person, firm, association or corporation or from any federal, state or local governmental agency or other governmental entity. The ~~commission~~ *director* may lease, purchase or otherwise acquire title to real property for the state system of veterans cemeteries. Subject to the provisions of subsection (b), the ~~commission~~ *director* may enter into contracts for the purpose of establishing and maintaining the system of veterans cemeteries.

(b) The ~~commission~~ *director* shall not enter into any contracts pursuant to subsection (a) after the effective date of this act for the purpose of establishing and maintaining the system of veterans cemeteries unless funds in an amount equal to 100% of the costs of constructing the cemeteries in such system is provided by the federal government.

(c) No more than three applications shall be submitted to the veterans administration for the state veterans cemetery program grant after

the effective date of this act. Nothing in this subsection shall be construed as applying to grants submitted prior to the effective date of this act.

Sec. 24. K.S.A. 2013 Supp. 73-1233 is hereby amended to read as follows: 73-1233. (a) As used in this section “memorial for veterans” means a capital improvement or other suitable memorial for Kansas veterans who served in the armed forces of the United States of America which is proposed to be located or is located at an institution, building or facility on state-owned property of the *director of the* Kansas commission on veterans affairs *office* and may include trees, shrubs and other landscaping.

(b) In accordance with this section, the *director of the* Kansas commission on veterans affairs *office* may initiate and conduct capital improvement projects to construct, reconstruct or repair or to maintain memorials for veterans. Each memorial for veterans shall be located at an institution, building or facility on state-owned property of the *director of the* Kansas commission on veterans affairs *office* and shall become the property of Kansas upon completion and acceptance of the project by the secretary of administration and the *director of the* Kansas commission on veterans affairs *office*. Except as otherwise provided by law or rules and regulations adopted under this section, each such capital improvement project for any such memorial for veterans shall be totally financed from private moneys received by the *director of the* Kansas commission on veterans affairs *office* for such purpose. Prior to initiating a capital improvement project for any such memorial for veterans, the plans and specifications for the project shall be reviewed and shall receive prior approval by the secretary of administration. No such capital improvement project for any such memorial for veterans shall be approved or initiated by the *director of the* Kansas commission on veterans affairs *office* without having first advised and consulted with the joint committee on state building construction.

(c) In accordance with the provisions of this act and the rules and regulations adopted thereunder, the *director of the* Kansas commission on veterans affairs *office* may apply for, accept and receive any private donation, gift, grant or bequest made to establish, modify or maintain memorials for veterans. The *director of the* Kansas commission on veterans affairs *office* shall administer and expend any such private donation, gift, grant or bequest in accordance with the terms or conditions imposed by the donor.

(d) The *director of the* Kansas commission on veterans affairs *office* shall develop and adopt rules and regulations prescribing guidelines, limitations and procedures for the approval of proposed memorials for veterans and for the acceptance of private donations, gifts, grants and bequests made for memorials for veterans. The rules and regulations prescribing such guidelines and procedures shall include:

(1) Procedures for the appointment by the ~~commission~~ *director of the Kansas commission on veterans affairs office* of an advisory committee to advise the ~~commission~~ *director* regarding memorials for veterans, which *advisory* committee shall include one or more members of the legislature representing each area where a memorial may be located pursuant to this section and such other persons selected by the ~~commission~~ *director*;

(2) guidelines for memorials for veterans to assure that each memorial for veterans is an appropriate tribute to Kansas veterans who served in the armed forces of the United States of America, is nonpartisan in nature and is in accord with nondiscrimination principles;

(3) guidelines and procedures to provide that the prior, express approval of the *director of the Kansas commission on veterans affairs office* has been obtained before: (A) The name of the Kansas commission on veterans affairs *office* or the name of the Kansas soldiers' home, the Kansas veterans' home or any other institution, building or facility under the jurisdiction of the ~~commission~~, *director*; or (B) the name of ~~any member of the commission~~ *director* or of any officer or employee of the ~~commission~~ *Kansas commission on veterans affairs office* or of any such institution, building or facility, is used in connection with any fund-raising for any memorial for veterans;

(4) guidelines for appropriate recognition of donors for memorials for veterans, except that no memorial for veterans shall be named for any donor;

(5) procedures to provide that the design, plans and specifications for memorials for veterans are reviewed and approved by the secretary of administration to assure conformance with the requirements and guidelines applicable to state capital improvement projects; and

(6) limitations and other guidelines for the expenditure of moneys in benefit funds established under K.S.A. 75-3728e et seq., and amendments thereto, for the Kansas soldiers' home or the Kansas veterans' home for the establishment or maintenance of memorials for veterans.

(e) Members of the advisory committee established under this section shall receive no compensation or reimbursement for expenses incurred for their service on such advisory committees.

(f) There is hereby established in the state treasury the Kansas veterans memorials fund which shall be administered by the *director of the Kansas commission on veterans affairs office*. All moneys received from any private donation, gift, grant or bequest made for memorials for Kansas veterans who served in the armed forces of the United States of America shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas veterans memorials fund. All expenditures from the Kansas veterans memorials fund shall be for the purpose

of financing capital improvement projects for the construction, reconstruction or repair or for the maintenance of memorials for veterans and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the *director of the Kansas commission on veterans affairs office* or the ~~commission's~~ *director's* designee.

(g) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas veterans memorials fund interest earnings based on:

- (1) The average daily balance of moneys in the Kansas veterans memorials fund for the preceding month; and
- (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

Sec. 25. K.S.A. 2013 Supp. 73-1234 is hereby amended to read as follows: 73-1234. (a) (1) The *director of the Kansas commission on veterans affairs office* shall establish and administer a veterans claims assistance program in accordance with this section to improve the coordination of veterans benefits counseling in Kansas to maximize the effective and efficient use of taxpayer dollars and to ensure that every veteran is served and receives claims counseling and assistance.

(2) The *director of the Kansas commission on veterans affairs office* shall establish and commence operations under the veterans claims assistance program in accordance with this section on or before August 1, 2006.

(3) The *director of the Kansas commission on veterans affairs office* shall appoint the ~~director of the veterans claims assistance program~~ *deputy director of veterans services*, who shall be in the classified service under the Kansas civil service act. *The deputy director of veterans services shall provide such services to assist the director of the Kansas commission on veterans affairs office for all veterans services, except for those services relating to the Kansas soldiers' home and the Kansas veterans' home.*

(4) No employee of the Kansas commission on veterans affairs office shall act as an agent with power of attorney for any claimant.

(b) The veterans claims assistance program shall implement and administer annual service grants to eligible veterans service organizations pursuant to grant agreements entered into with the *director of the Kansas commission on veterans affairs office* in accordance with this section. All grant agreements shall include any match requirements described in subsection (g). All service grants and grant agreements shall be subject to the provisions of appropriation acts.

(c) The *director of the Kansas commission on veterans affairs office* shall adopt rules and regulations to implement and administer the veterans claims assistance program and the service grant program. The rules and regulations shall include: (1) The detailed requirements of the vet-

erans claims assistance program and grant agreements; (2) the responsibilities of all parties to the grant agreements; (3) the duration of the grants; (4) any insurance or bonding requirements; (5) the format and frequency of progress and final reports; (6) the initial and continuing training requirements for veterans claims assistance representatives; (7) the provisions of a quality assurance program for the veterans claims assistance program and the services performed by veterans service organizations receiving grants under this section; and (8) any other information or requirements deemed necessary or appropriate by the ~~commission~~ *director*.

(d) All moneys provided to veterans service organizations through service grants shall be used only for salaries, wages, related employer contributions and personnel costs, and operating and capital outlay expenditures for training and equipment for veterans claims assistance representatives and necessary support and managerial staff.

(e) Training activities for veterans claims assistance representatives shall be the responsibility of the veterans service organization employing the veterans claims assistance representatives and shall be conducted by qualified veterans claims assistance representatives.

(f) To receive a service grant under this section to perform services under the veterans claims assistance program, a veterans service organization shall satisfy the following eligibility requirements:

(1) The veterans service organization shall be congressionally chartered by the United States Congress;

(2) the veterans service organization shall agree to cross-accredit the officers and employees of the *director of the Kansas commission on veterans affairs office* who are veterans and who work in the veteran services program, as well as veterans claims assistance representatives of other veterans service organizations who are performing services under the veterans claims assistance program, subject to the following:

(A) The person to be cross-accredited shall provide proof to the ~~director~~ *deputy director of veterans services* that the person has successfully completed the national association of county veterans service officers training or equivalent, as determined by the ~~director~~ *deputy director of veterans services* and that such person shall participate in a minimum of one annual training session as approved by the ~~director~~ *deputy director of veterans services* as well as maintain the continuing education requirements of the cross-accrediting veterans service organization; and

(B) the cross-accrediting veterans service organization has reserved the right to terminate the accreditation if the person fails to meet the continuing education requirement of the veterans service organization or participate in a minimum of one annual training session as approved by the ~~director~~ *deputy director of veterans services*;

(3) agree to participate in one-stop veterans service centers at the

federal veterans administration regional office and each federal veterans administration medical center in Kansas;

(4) demonstrate the receipt of monetary or service support from its own organization for the veterans claims assistance program;

(5) demonstrate the ability to comply with the requirements prescribed by this section or adopted by the *director of the* Kansas commission on veterans affairs *office* under this statute for accounting, service work activity and other satisfactory performance requirements and measures;

(6) have established state headquarters in Kansas;

(7) have staff present in the federal veterans administration regional office and the United States department of veterans affairs medical centers located in Topeka and Leavenworth;

(8) have membership residency in at least 50% of the Kansas counties;

(9) have had an established office presence in the United States department of veterans affairs regional office in Kansas for at least the three most recent state fiscal years;

(10) have assisted in filing a minimum of 300 claims for veterans for which the veterans service organization has power of attorney in the past 12-month period;

(11) agree to make no reference to membership eligibility on claims documentation and not solicit membership due to information received on claim forms;

(12) agree to cross-accredit service officers participating in the service grant program to include service officers of partnered veterans service organizations and *the* Kansas commission on veterans affairs *office* staff located in the federal veterans administration regional office and the United States department of veterans affairs medical centers in Leavenworth and Topeka; and

(13) agree that the veterans service organization shall continue to provide monetary support for the veterans claims assistance program pursuant to the requirements in subsection (g).

~~For the purposes of this subsection, "director" means the director of the veterans claims assistance program.~~

(g) Any monetary support provided under subsection (f)(13) shall be in a combination of monetary and non-monetary support, herein called "match." The veterans claims assistance advisory board shall determine the percentage of the match as a percent of the amount of the service grant provided to the veterans service organization, and submit such determination to the *director of the* Kansas commission on veterans affairs *office* for approval.

(h) Each veterans service organization receiving a service grant under this section shall file with the Kansas commission on veterans affairs *office*, within 90 days after the end of the veterans service organization's fiscal

year, a detailed statement prepared by a certified public accountant which sets forth an accounting of all expenditures of moneys received under the service grant. Each veterans service organization receiving a service grant under this section shall apply for the grant funding on an annual basis, shall demonstrate satisfactory performance based on completion of minimum requirements during the preceding annual period and shall certify that all veterans service representatives funded with service grant moneys meet minimum training requirements to provide for core competencies.

(i) The *director of the Kansas commission on veterans affairs office* shall develop and maintain a central database registry regarding claims outcome data received from veterans claims assistance representatives under the veterans claims assistance program.

Sec. 26. K.S.A. 2013 Supp. 73-1235 is hereby amended to read as follows: 73-1235. (a) There is hereby established with the Kansas commission on veterans affairs *office* an advisory board which shall be known as the ~~veterans claims assistance~~ VCAP advisory board. The advisory board shall advise the *director of the Kansas commission on veterans affairs office* in the implementation and administration of the veterans claims assistance program.

(b) (1) The advisory board shall consist of ~~the following members at least seven members as follows:~~

~~(1)(A) The deputy director of the veterans claims assistance program veterans services, who shall be a permanent member of the advisory board and shall serve as the chairperson of the advisory board.~~

~~(2)(B) Each veterans service organization participating in the grant program shall appoint one member of the advisory board who shall be a veteran. The deputy director of veterans services shall notify the state level unit of each national veterans service organization which has an office in the federal department of veteran affairs regional office in Wichita, Kansas, and request written confirmation of the intent of the veterans service organization to participate in the veterans claims assistance program and to request an annual service grant. Each such veterans service organization submitting such confirmation that also meets the eligibility requirements in K.S.A. 73-1234, and amendments thereto, shall prepare and submit a list of three nominations of veterans from such veterans service organization.~~

~~(C) The governor shall appoint one veteran as a member of the advisory board from each list two members of the advisory board who shall be veterans. With regard to members appointed by the governor, any veterans service organization may submit a list of three names for consideration by the governor in making the appointment. The governor shall consider each such list if timely submitted and may appoint from among those listed.~~

~~(3)(D) Two legislators, one from each house, shall be appointed to~~

the advisory board with the speaker of the house of representatives and president of the senate each appointing a member. One legislator shall be a member of the democratic party and one legislator shall be a member of the republican party.

(2) *If there are less than two veterans services organizations participating in the grant program under subsection (b)(1)(B), then the governor shall appoint the remaining members of the advisory board. Appointments under this paragraph shall not exceed two members.*

(c) Within 90 days of the effective date of this act, the governor, the speaker of the house of representatives and the president of the senate shall appoint the initial members of the advisory board. Of the initial appointments to the advisory board by the governor, one shall be for a term of one year, one shall be for a term of two years and one shall be for a term ending three years after the date of the initial appointment. After the initial appointments, terms of office of the members appointed by the governor shall be for three years. The term of office of each member appointed by the speaker of the house of representatives or the president of the senate shall end on the first day of the regular session of the legislature which commences in the first odd-numbered year occurring after the year such member was appointed.

(d) Each member of the advisory board, other than the director of the veterans claims assistance program, shall serve until a successor is appointed and qualified. Whenever a vacancy occurs in the membership of the advisory board for any reason other than the expiration of a member's term of office, the governor, the speaker of the house of representatives or president of the senate shall appoint a successor of like qualifications to fill the unexpired term in accordance with this section. In the case of any vacancy occurring in the position of an advisory board member who was appointed from a list of nominations submitted by a veterans service organization, the governor shall notify that veterans service organization of the vacant position and request a list of three nominations of veterans from which the governor shall appoint a successor to the advisory board.

(e) Annually, the advisory board shall elect a vice-chairperson and secretary from among its members and shall meet at least four times each year at the call of the chairperson.

(f) The members of the advisory board attending meetings of the advisory board or attending a subcommittee meeting thereof authorized by the advisory board shall receive no compensation for their services but shall be paid subsistence allowances, mileage and other expenses as provided in subsections (b), (c) and (d) of K.S.A. 75-3223, and amendments thereto.

Sec. 27. K.S.A. 2013 Supp. 73-1236 is hereby amended to read as follows: 73-1236. The legislative budget committee shall annually study

and review the veterans claims assistance program and the service grants program of the Kansas commission on veterans affairs *office* under this act. The *director of the* Kansas commission on veterans affairs *office* and each veterans service organization which is receiving service grants under this section shall prepare and present annual reports of activities and expenditures under the veterans claims assistance program and the service grants program.

Sec. 28. K.S.A. 2013 Supp. 73-1238 is hereby amended to read as follows: 73-1238. There is hereby created within the Kansas commission on veterans affairs *office*, the Vietnam war era medallion program. Every veteran who honorably served on active duty in the United States military service at any time beginning February 28, 1961, and ending May 7, 1975, shall be entitled to receive a Vietnam war era medallion, medal and a certificate of appreciation, provided that:

~~(1)~~(a) Such veteran is a legal resident of this state or was a legal resident of this state at the time the veteran entered or was discharged from military service or at the time of the veteran's death; and

~~(2)~~(b) such veteran was honorably separated or discharged from military service or is still in active service in an honorable status, or was in active service in an honorable status at the time of the veteran's death.

Sec. 29. K.S.A. 2013 Supp. 73-1239 is hereby amended to read as follows: 73-1239. The Vietnam war era medallion, medal and a certificate shall be awarded regardless of whether or not such veteran served within the United States or in a foreign country. The medallion, medal and the certificate shall be awarded regardless of whether or not such veteran was under eighteen years of age at the time of enlistment. For purposes of this bill, "veteran" means any person defined as a veteran by the United States department of veterans' affairs or its successor agency. The *director of the* Kansas commission on veterans affairs *office* shall administer the program and shall adopt all rules and regulations necessary to administer the program. The agency shall determine as expeditiously as possible the persons who are entitled to a Vietnam war era medallion, medal and a certificate and distribute the medallions, medals and the certificates. Applications for the Vietnam war era medallion, medal and the certificate shall be filed with the *director of the* Kansas commission on veterans affairs *office* at any time after January 1, 2010, on forms prescribed and furnished by the *deputy director of the* Kansas commission on veterans affairs *office*. The director of veteran services shall approve all applications that are in order, and shall cause a Vietnam war era medallion, medal and a certificate to be prepared for each approved veteran in the form approved by the *director of the* Kansas commission on veterans affairs *office*. The *deputy director of the* ~~Kansas~~ *veterans* ~~veterans~~ *veteran* services shall review applications for the Vietnam war era medallion, medal and a certificate to ensure recipients are enrolled for eligible federal benefits.

Sec. 30. K.S.A. 2013 Supp. 73-1241 is hereby amended to read as follows: 73-1241. If any spouse or eldest living survivor applies for the Vietnam war era medallion, medal and certificate or if any veteran dies after applying for a Vietnam war era medallion, medal and a certificate and such veteran would have been entitled to the Vietnam war era medallion, medal and the certificate, the *director of the* Kansas commission on veterans affairs *office* shall give the Vietnam war era medallion, medal and the certificate to the spouse or eldest living survivor of the deceased veteran.

Sec. 31. K.S.A. 2013 Supp. 73-1242 is hereby amended to read as follows: 73-1242. If the director of veteran services disallows any veteran's claim to a Vietnam war era medallion, medal and a certificate, a statement of the reason for the disallowance shall be filed with the application and notice of this disallowance shall be mailed to the applicant at the applicant's last known address. The *director of the* Kansas commission on veterans affairs *office* shall approve the form of the Vietnam war era medallion, medal and the certificate. It is the intent of the legislature to create statewide involvement in the design of these symbols in recognition of this historic endeavor. ~~The veterans'~~ *director of the* Kansas commission on veterans affairs *office* may solicit potential designs from elementary and secondary schools, veterans' groups, civic organizations or any other interested party, and may select the best design from among such solicited designs or may select another design.

Sec. 32. K.S.A. 2013 Supp. 73-1243 is hereby amended to read as follows: 73-1243. The "Vietnam war era veterans' recognition award fund" is hereby created in the state treasury, and shall consist of all gifts, donations and bequests to the fund. Moneys received shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Vietnam war era veterans' recognition award fund. The fund shall be administered by the *director of the* Kansas commission on veterans affairs *office*. Moneys in the Vietnam war era veterans' recognition award fund shall not be transferred to the credit of the state general fund. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the Vietnam war era veterans' recognition award fund interest earnings based on:

~~(1)~~(a) The average daily balance of moneys in the Vietnam war era veterans' recognition award fund for the preceding month; and  
~~(2)~~(b) the net earnings rate of the pooled money investment portfolio for the preceding month. Moneys in the fund shall be used solely to promote the solicitation for designs for, aid in the manufacture of and aid in the distribution of the medallion, medal and the certificate.

Sec. 33. K.S.A. 2012 Supp. 74-2012, as amended by section 3 of chap-

ter 74 of the 2013 Session Laws of Kansas, is hereby amended to read as follows: 74-2012. (a) (1) All motor vehicle records shall be subject to the provisions of the open records act, except as otherwise provided under the provisions of this section and by K.S.A. 65-2422d and 74-2022, and amendments thereto.

(2) Nothing in this section shall prevent the transmittal of motor vehicle records for the purpose of processing voter registration applications.

(3) For the purpose of this section, "motor vehicle records" means any record that pertains to a motor vehicle drivers' license, motor vehicle certificate of title, motor vehicle registration or identification card issued by the division of vehicles.

(b) All motor vehicle records which relate to the physical or mental condition of any person, have been expunged or are photographs or digital images maintained in connection with the issuance of drivers' licenses shall be confidential and shall not be disclosed except in accordance with a proper judicial order or as otherwise more specifically provided in this section or by other law. Photographs or digital images maintained by the division of vehicles in connection with the issuance of drivers' licenses may be disclosed to any federal, state or local agency, including any court or law enforcement agency, to assist such agency in carrying out the functions required of such governmental agency. In January of each year the division shall report to the house committee on veterans, military and homeland security regarding the utilization of the provisions of this subsection. Motor vehicle records relating to diversion agreements for the purposes of K.S.A. 8-1567, 12-4415 and 22-2908 and K.S.A. 2013 Supp. 8-1025, and amendments thereto, shall be confidential and shall not be disclosed except in accordance with a proper judicial order or by direct computer access to:

(1) A city, county or district attorney, for the purpose of determining a person's eligibility for diversion or to determine the proper charge for a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, or any ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by those statutes;

(2) a municipal or district court, for the purpose of using the record in connection with any matter before the court;

(3) a law enforcement agency, for the purpose of supplying the record to a person authorized to obtain it under paragraph (1) or (2) of this subsection; or

(4) an employer when a person is required to retain a commercial driver's license due to the nature of such person's employment.

(c) Lists of persons' names and addresses contained in or derived from motor vehicle records shall not be sold, given or received for the purposes prohibited by K.S.A. 2013 Supp. 45-230, and amendments thereto, except that:

(1) The director of vehicles may provide to a requesting party, and a

requesting party may receive, such a list and accompanying information from motor vehicle records upon written certification that the requesting party shall use the list solely for the purpose of:

(A) Assisting manufacturers of motor vehicles in compiling statistical reports or in notifying owners of vehicles believed to:

- (i) Have safety-related defects;
- (ii) fail to comply with emission standards; or
- (iii) have any defect to be remedied at the expense of the manufacturer;

(B) assisting an insurer authorized to do business in this state, or the insurer's authorized agent:

(i) In processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy; or

(ii) in conducting antifraud activities by identifying potential undisclosed drivers of a motor vehicle currently insured by an insurer licensed to do business in this state by providing only the following information: Drivers' license number, license type, date of birth, name, address, issue date and expiration date;

(C) assisting the selective service system in the maintenance of a list of persons 18 to 26 years of age in this state as required under the provisions of section 3 of the federal military selective service act;

(D) assisting any federal, state or local agency, including any court or law enforcement agency, or any private person acting on behalf of such agencies in carrying out the functions required of such governmental agency, except that such records shall not be redisclosed;

(E) assisting businesses with the verification or reporting of information derived from the title and registration records of the division to prepare and assemble vehicle history reports, except that such vehicle history reports shall not include the names or addresses of any current or previous owners;

(F) assisting businesses in producing motor vehicle title or motor vehicle registration, or both, statistical reports, so long as personal information is not published, redisclosed or used to contact individuals;

(G) assisting an employer or an employer's authorized agent in monitoring the driving record of the employees required to drive in the course of employment to ensure driver behavior, performance or safety; or

(H) assisting the Kansas commission on veterans affairs *office* in notifying veterans of the facilities, benefits and services available to veterans.

(2) Any law enforcement agency of this state which has access to motor vehicle records may furnish to a requesting party, and a requesting party may receive, such a list and accompanying information from such records upon written certification that the requesting party shall use the list solely for the purpose of assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application

for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(d) If a law enforcement agency of this state furnishes information to a requesting party pursuant to paragraph (2) of subsection (c), the law enforcement agency shall charge the fee prescribed by the secretary of revenue pursuant to K.S.A. 74-2022, and amendments thereto, for any copies furnished and may charge an additional fee to be retained by the law enforcement agency to cover its cost of providing such copies. The fee prescribed pursuant to K.S.A. 74-2022, and amendments thereto, shall be paid monthly to the secretary of revenue and upon receipt thereof shall be deposited in the state treasury to the credit of the electronic databases fee fund, except for the \$1 of the fee for each record required to be credited to the highway patrol training center fund under subsection (f).

(e) The secretary of revenue, the secretary's agents or employees, the director of vehicles or the director's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission of a law enforcement agency in furnishing any information obtained from motor vehicle records.

(f) A fee in an amount fixed by the secretary of revenue pursuant to K.S.A. 74-2022, and amendments thereto, of not less than \$2 for each full or partial motor vehicle record shall be charged by the division, except that the director may charge a lesser fee pursuant to a contract between the secretary of revenue and any person to whom the director is authorized to furnish information under paragraph (1) of subsection (c), and such fee shall not be less than the cost of production or reproduction of any full or partial motor vehicle record requested. Except for the fees charged pursuant to a contract for motor vehicle records authorized by this subsection pertaining to motor vehicle titles or motor vehicle registrations or pursuant to subsection (c)(1)(B)(ii) or (c)(1)(D), \$1 shall be credited to the highway patrol training center fund for each motor vehicle record provided by the division of vehicles.

(g) The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.

Sec. 34. K.S.A. 2013 Supp. 75-3370 is hereby amended to read as follows: 75-3370. (a) ~~The secretary of social and rehabilitation~~ *for aging and disability* services is hereby authorized to enter into an interagency agreement with the secretary of corrections and the *director of the* Kansas commission on veterans affairs *office* transferring the charge, care, management and control of the Winfield state hospital and training center property to the department of corrections and the Kansas commission on veterans affairs *office* in accordance with the current uses of the Winfield state hospital and training center property and as agreed upon by the

secretary of corrections and the *director of the* Kansas commission on veterans affairs *office*.

(b) At such time as specific title descriptions to the portion of the Winfield state hospital and training center property that is transferred to the charge, care, management and control of the department of corrections and the portion of the Winfield state hospital and training center property that is transferred to the charge, care, management and control of the *director of the* Kansas commission on veterans affairs *office* have been determined and are available, the secretary of ~~social and rehabilitation for aging and disability~~ services shall convey, without compensation, title to such portions of the Winfield state hospital and training center property to the department of corrections and the Kansas commission on veterans affairs *office*, respectively. The conveyance prescribed by this section shall not be subject to the provisions of K.S.A. 75-3043a, and amendments thereto.

(c) “Winfield state hospital and training center property” means the state-owned real estate, including any improvements thereon, which is located in the city of Winfield and Cowley county and which is described as follows:

(1) The Southwest Quarter of Section 14, Township 32 South, Range 4 East of the 6<sup>th</sup> P.M., Cowley County, Kansas;

(2) The Southeast Quarter of Section 15, Township 32 South, Range 4 East of the 6<sup>th</sup> P.M., Cowley County, Kansas, less Road Right of Way; and

(3) Part of the Northwest Quarter of Section 15, Township 32 South, Range 4 East of the 6<sup>th</sup> P.M., that lies East of the Centerline of Timber Creek, and described as follows: Commencing at the Northeast corner of said Quarter Section; Thence West along the North line of said Quarter Section to the center of the Channel of Timber Creek; Thence Southerly down the center of the channel of said creek (following the meanderings thereof) to the South line of said Quarter Section; Thence East along the South line of said Quarter Section to the Southeast Corner of said Quarter Section; Thence North along the East line of said Quarter Section to the Point of Beginning.

Sec. 35. K.S.A. 2013 Supp. 75-4362 is hereby amended to read as follows: 75-4362. (a) The director of the division of personnel services of the department of administration shall have the authority to establish and implement a drug screening program for persons taking office as governor, lieutenant governor, attorney general or members of the Kansas senate or house of representatives and for applicants for safety sensitive positions in state government, but no applicant for a safety sensitive position shall be required to submit to a test as a part of this program unless the applicant is first given a conditional offer of employment.

(b) The director also shall have the authority to establish and imple-

ment a drug screening program based upon a reasonable suspicion of illegal drug use by any person currently holding one of the following positions or offices:

- (1) The office of governor, lieutenant governor or attorney general;
- (2) members of the Kansas senate or house of representatives;
- (3) any safety sensitive position;
- (4) any position in an institution of mental health, as defined in K.S.A. 76-12a01, and amendments thereto, that is not a safety sensitive position;
- (5) any position in the Kansas state school for the blind, as established under K.S.A. 76-1101 et seq., and amendments thereto;
- (6) any position in the Kansas state school for the deaf, as established under K.S.A. 76-1001 et seq., and amendments thereto; or
- (7) any employee of a state veteran's home operated by the *director of the Kansas commission on ~~veteran's~~ veterans affairs office* as described in K.S.A. 76-1901 et seq. and K.S.A. 76-1951 et seq., and amendments thereto.

(c) Any public announcement or advertisement soliciting applications for employment in a safety sensitive position in state government shall include a statement of the requirements of the drug screening program established under this section for applicants for and employees holding a safety sensitive position.

(d) Except for a person who has access to a secured biological laboratory in the office of laboratory services of the department of health and environment, no person shall be terminated solely due to positive results of a test administered as a part of a program authorized by this section if:

- (1) The employee has not previously had a valid positive test result; and
- (2) the employee undergoes a drug evaluation and successfully completes any education or treatment program recommended as a result of the evaluation. Nothing herein shall be construed as prohibiting demotions, suspensions or terminations pursuant to K.S.A. 75-2949e or 75-2949f, and amendments thereto.

(e) Except in hearings before the state civil service board regarding disciplinary action taken against the employee, the results of any test administered as a part of a program authorized by this section shall be confidential and shall not be disclosed publicly.

(f) The secretary of administration may adopt such rules and regulations as necessary to carry out the provisions of this section.

(g) "Safety sensitive positions" means the following:

- (1) All state law enforcement officers who are authorized to carry firearms;
- (2) all state corrections officers;
- (3) all state parole officers;

(4) heads of state agencies who are appointed by the governor and employees on the governor's staff;

(5) all employees with access to secure facilities of a correctional institution, as defined in K.S.A. 2013 Supp. 21-5914, and amendments thereto;

(6) all employees of a juvenile correctional facility, as defined in K.S.A. 2013 Supp. 38-2302, and amendments thereto;

(7) all employees within an institution of mental health, as defined in K.S.A. 76-12a01, and amendments thereto, who provide clinical, therapeutic or habilitative services to the clients and patients of those institutions; and

(8) all employees who have access to a secured biological laboratory in the office of laboratory services of the department of health and environment.

Sec. 36. K.S.A. 2013 Supp. 76-6b05 is hereby amended to read as follows: 76-6b05. (a) All moneys received by the state treasurer under K.S.A. 76-6b04, and amendments thereto, shall be credited to the state institutions building fund, which is hereby created in the state treasury, to be used for the construction, reconstruction, equipment and repair of buildings and grounds at institutions specified in K.S.A. 76-6b04, and amendments thereto, and for payment of debt service on revenue bonds issued to finance such projects, all subject to appropriation by the legislature.

(b) Subject to any restrictions imposed by appropriation acts, the juvenile justice authority is authorized to pledge funds appropriated to it from the state institutions building fund or from any other source and transferred to a special revenue fund of the juvenile justice authority specified by statute for the payment of debt service on revenue bonds issued for the purposes set forth in subsection (a). Subject to any restrictions imposed by appropriation acts, the juvenile justice authority is also authorized to pledge any funds appropriated to it from the state institutions building fund or from any other source and transferred to a special revenue fund of the juvenile justice authority specified by statute as a priority for the payment of debt service on such revenue bonds. Neither the state or the juvenile justice authority shall have the power to pledge the faith and credit or taxing power of the state of Kansas for such purposes and any payment by the juvenile justice authority for such purposes shall be subject to and dependent on appropriations being made from time to time by the legislature. Any obligation of the juvenile justice authority for payment of debt service on revenue bonds and any such revenue bonds issued for the purposes set forth in subsection (a) shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas.

(c) Subject to any restrictions imposed by appropriation acts, the ~~de-~~

~~partment of social and rehabilitation~~ *Kansas department for aging and disability* services is authorized to pledge funds appropriated to it from the state institutions building fund or from any other source and transferred to a special revenue fund of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services specified by statute for the payment of debt service on revenue bonds issued for a new state security hospital on the Larned state hospital grounds or any other capital improvement projects at any other institution or facility of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services. Subject to any restrictions imposed by appropriation acts, the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services is also authorized to pledge any funds appropriated to it from the state institutions building fund or from any other source and transferred to a special revenue fund of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services specified by statute as a priority for the payment of debt service on such revenue bonds. Neither the state or the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services shall have the power to pledge the faith and credit or taxing power of the state of Kansas for such purposes and any payment by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services for such purposes shall be subject to and dependent on appropriations being made from time to time by the legislature. Any obligation of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services for payment of debt service on revenue bonds and any such revenue bonds issued for a new state security hospital on the Larned state hospital grounds or any other capital improvement projects at any other institution or facility of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas.

(d) Subject to any restrictions imposed by appropriation acts, the *director of the Kansas commission on veterans affairs office* is authorized to pledge funds appropriated to it from the state institutions building fund or from any other source and transferred to a special revenue fund of the Kansas commission on veterans affairs *office* specified by statute for the payment of debt service on revenue bonds issued for veterans' home HVAC system replacement. Subject to any restrictions imposed by appropriation acts, the *director of the Kansas commission on veterans affairs office* is also authorized to pledge any funds appropriated to it from the state institutions building fund or from any other source and transferred to a special revenue fund of the Kansas commission on veterans affairs *office* specified by statute as a priority for the payment of debt service on such revenue bonds. Neither the state ~~or~~ nor the *director of the Kansas commission on veterans affairs office* shall have the power to pledge the

faith and credit or taxing power of the state of Kansas for such purposes and any payment by the Kansas commission on veterans affairs *office* for such purposes shall be subject to and dependent on appropriations being made from time to time by the legislature. Any obligation of the Kansas commission on veterans affairs *office* for payment of debt service on revenue bonds and any such revenue bonds issued for veterans' home HVAC system replacement shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas.

Sec. 37. K.S.A. 76-1904 is hereby amended to read as follows: 76-1904. (a) The *director of the* Kansas commission on veterans affairs *office* shall have full control of the Kansas soldiers' home, the property, effects, supervision and management thereof.

(b) ~~A superintendent of the Kansas soldiers' home shall be appointed by the Kansas commission on veterans affairs, and shall serve at the pleasure of the commission. The superintendent shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the Kansas commission on veterans affairs, with the approval of the governor. The superintendent of the Kansas soldiers' home shall perform such duties and exercise such powers as the commission may prescribe, and such duties and powers as are prescribed by law. A superintendent of the Kansas soldiers' home shall be appointed by the director of the Kansas commission on veterans affairs office in accordance with K.S.A. 73-1210a.~~

Sec. 38. K.S.A. 76-1904a is hereby amended to read as follows: 76-1904a. The *director of the* Kansas ~~veterans'~~ commission on *veterans affairs office* shall establish rates of charges to be made to members and patients of the Kansas soldiers' home. Such charges shall not exceed an amount equal to the per diem cost of care for the preceding year or the charge made against patients under K.S.A. 59-2006, and amendments thereto, whichever is the smaller. No action shall be commenced by the *director of the* Kansas ~~veterans'~~ commission on *veterans affairs office* against a member or patient or the estate of a member or patient for the recovery of any such charges unless such action is commenced within five (5) years after the date such charges are incurred. Such ~~commission~~ *director* may compromise and settle any claim for charges hereunder, and may, upon payment of a valuable consideration by the member or patient or his or her estate, discharge and release such member, patient or estate of any or all past liability incurred hereunder. Whenever the ~~commission~~ *director* shall negotiate a compromise agreement to settle any claim due or claim to be due from a member or a patient or his or her estate, no action shall thereafter be brought or claim made for any amounts due for charges incurred prior to the effective date of the agreement entered into, except for the amounts provided for in the agreement. Nothing in

this act shall be deemed to extend the period specified in K.S.A. 59-2239, *and amendments thereto*, for the purposes therein specified.

Sec. 39. K.S.A. 2013 Supp. 76-1906 is hereby amended to read as follows: 76-1906. The superintendent of the Kansas soldiers' home shall remit all moneys received by or for the superintendent under article 19 of chapter 76 of *the Kansas Statutes Annotated*, and amendments thereto, and all moneys received from the United States veterans administration for reimbursements for the care of residents to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the soldiers' home fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the ~~Kansas veterans' commission~~ *on veterans affairs office* or by a person or persons designated by the director.

Sec. 40. K.S.A. 76-1908 is hereby amended to read as follows: 76-1908. (a) The following, subject to the rules and regulations that may be adopted by the *director of the Kansas commission on veterans affairs office* for the management and government of the Kansas soldiers' home, shall be eligible to admission to the Kansas soldiers' home:

(1) Any person who served in the active military service of the United States during any period of war, or who served in the active military service of the United States during peacetime and is entitled to veterans administration hospitalization or domiciliary care under title 38, United States code and veterans administration rules and regulations, and who has been discharged or relieved therefrom under conditions other than dishonorable, who may be disabled by disease, wounds, old age or otherwise disabled, and who, by reason of such disability, is incapacitated from earning a living.

(2) The widow, mother, widower, father or minor child of any person who qualified under paragraph (1) of subsection (a), if such widow, mother, widower, father or minor child is incapable of self-support because of physical disability.

(b) No person shall be admitted to the soldiers' home except upon application to the *Kansas commission on veterans affairs office* and approval of the application by the ~~commission~~ *director*. No applicant shall be admitted to the soldiers' home who has not been an actual resident of the state of Kansas for at least two years next preceding the date of application.

(c) No person shall be admitted to or retained in the soldiers' home who has been convicted of a felony, unless the ~~commission~~ *director of the Kansas commission on veterans affairs office* finds that such person

has been adequately rehabilitated and is not dangerous to oneself or to the person or property of others.

(d) No child shall be admitted to or retained in the soldiers' home who is 16 years of age or over, unless such child is incapable of supporting oneself.

(e) No child properly a member of the home shall be discharged under 16 years of age.

(f) The *director of the Kansas commission on veterans affairs office* shall have authority by resolution to discharge any member from the soldiers' home on a showing that the member has gained admittance into the soldiers' home by misrepresentation of the member's financial or physical condition, or a showing that the financial or physical condition of such member has been so altered since admittance so that the further maintenance of the member in the soldiers' home is not justified. No such member shall be discharged without notice and opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(g) The rules and regulations for admission of members to the Kansas soldiers' home: (1) Shall require that a veteran who has no adequate means of support, and such members of the family as are dependent upon such person for support, shall be given priority over other applicants for admission; and (2) shall require that an applicant for admission be given priority over patients transferred from state institutions under the provisions of K.S.A. 76-1936, and amendments thereto.

Sec. 41. K.S.A. 76-1927 is hereby amended to read as follows: 76-1927. The *director of the Kansas ~~veterans~~ commission on veterans affairs office* shall have the authority to establish rules and regulations for the management and operation of the Kansas soldiers' home and governing conduct and discipline of the members of and other persons in the Kansas soldiers' home. Such rules and regulations shall be filed with the secretary of state as provided by law.

Sec. 42. K.S.A. 76-1928 is hereby amended to read as follows: 76-1928. The *director of the Kansas commission on veterans affairs office or the superintendent of the Kansas soldiers' home* shall enforce such rules and regulations and ~~he or she~~ may furlough any member for violation of such rules.

Sec. 43. K.S.A. 76-1929 is hereby amended to read as follows: 76-1929. The *director of the Kansas ~~veterans~~ commission on veterans affairs office* may discharge any member who violates such rules and regulations, except that no member shall be discharged without notice to such member and a right to be heard concerning such charges in accordance with the provisions of the Kansas administrative procedure act.

Sec. 44. K.S.A. 76-1931 is hereby amended to read as follows: 76-1931. If any member of such soldiers' home shall refuse to vacate the

premises upon receiving a furlough from the officers designated to enforce the rules and regulations, such refusal shall constitute a forfeiture of ~~his or her~~ *such person's* right to remain in the home and such member shall be forthwith discharged by the *director of the Kansas veterans' commission on veterans affairs office*.

Sec. 45. K.S.A. 76-1932 is hereby amended to read as follows: 76-1932. If any member shall refuse to vacate the premises upon being discharged by the *director of the Kansas veterans' commission on veterans affairs office*, such member shall ~~forthwith~~ forfeit ~~his or her~~ *such member's* right to subsistence and rations for ~~himself or herself~~ *the member* and *the member's* dependents, if any, and the *director of the Kansas veterans' commission on veterans affairs office* shall institute legal proceedings to force such member to vacate the premises.

Sec. 46. K.S.A. 76-1935 is hereby amended to read as follows: 76-1935. The *director of the Kansas veterans' commission on veterans affairs office* shall designate a person at the Kansas soldiers' home who shall be in charge of the member funds at such soldiers' home. The person so designated shall have custody and charge of all moneys belonging to the members, or persons attending the Kansas soldiers' home, which are held for their use, benefit and burial. ~~Said~~ *The director of the Kansas veterans' commission on veterans affairs office* shall designate the bank or banks, in which such moneys shall be deposited, ~~and shall provide that any sums in excess of five thousand dollars (\$5,000) shall be deposited with the state treasurer for safekeeping. Any fund so deposited with the state treasurer shall be held by him or her, separate and apart from the other funds in his or her custody, and may be withdrawn by the person designated by said Kansas veterans' commission.~~

Sec. 47. K.S.A. 76-1935a is hereby amended to read as follows: 76-1935a. The custodian of the members and patients trust fund at the Kansas soldiers' home shall notify the ~~executive~~ director of the *Kansas veterans' commission on veterans affairs office* of any moneys which are under the custodian's charge belonging to members who have died intestate, without known heirs or designated beneficiaries for funds on deposit, and the ~~executive~~ director shall publish a notice for two consecutive weeks in the Kansas register which shall state the name of each deceased member, their last known home address and the amount of the deposit remaining in the account of such former member; and such notice shall further state that unless interested persons appear and file a legitimate claim ~~therefor~~ within one year after the date of the last publication of such notice, ~~said~~ *such* amount or amounts will be transferred to the general fees fund of the soldiers' home to help defray unrecovered costs connected with the maintenance and operation of the soldiers' home and for accounting, auditing, budgeting, legal, payroll, personnel and pur-

chasing services which are performed on behalf of such agency by other state agencies.

Unless a party entitled thereto shall make claim within the time stated in the notice, the balance in any former member's fund as so published for which no claim is made as prescribed herein shall be transferred as hereinabove provided. Thereafter, unless a claim is filed with the ~~veterans'~~ *director of the Kansas commission on veterans affairs office* within two years after such transfer is made, no claim may be made or filed for such former member's fund, except that a person under legal disability during the two-year period may file a claim within one year after removal of the disability. The ~~veterans'~~ *director of the Kansas commission on veterans affairs office* is hereby authorized to make payments to claimants it shall determine are entitled thereto, if such claims otherwise comply with the terms of this act, and such payments shall be authorized from the general fees fund of the Kansas soldiers' home to which the former members funds were transferred.

Sec. 48. K.S.A. 76-1936 is hereby amended to read as follows: 76-1936. (a) The commissioner of mental health and developmental disabilities of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services*, with the approval of the secretary of ~~social and rehabilitation for aging and disability services~~ and the *director of the Kansas veterans' commission on veterans affairs office*, may transfer patients in the state hospitals at Topeka, Osawatomie and Larned and patients in the Rainbow mental health facility, the Parsons state hospital and training center and the Winfield state hospital and training center who have served in the military or naval forces of the United States or whose husband, wife, father, son or daughter has served in the active military or naval service of the United States during any period of any war as defined in K.S.A. 76-1908, *and amendments thereto*, and *who* was discharged or relieved therefrom under conditions other than dishonorable, to the Kansas soldiers' home. No patient who is such a mentally ill person, in the opinion of the commissioner of mental health and developmental disabilities, that because of such patient's illness such patient is likely to injure himself or others, shall be so transferred to such Kansas soldiers' home, and no such patient shall be so transferred if such transfer will deny admission to persons entitled to admission under K.S.A. 76-1908, *and amendments thereto*, and rules and regulations promulgated thereunder. Persons so transferred shall not be considered as members of the Kansas soldiers' home but shall be considered as patients therein.

(b) All of the laws, rules and regulations relating to patients in the above-specified state hospitals and mental health facility shall be applicable to such patients so transferred insofar as the same can be made applicable. Any patient so transferred who is found to be or shall become such a mentally ill person, in the opinion of the commissioner of mental

health and developmental disabilities, that because of such patient's illness such patient is likely to injure himself or others or who is determined to need additional psychiatric treatment, shall be retransferred by the superintendent of the Kansas soldiers' home, with the approval of the commissioner of mental health and developmental disabilities *and the director of the Kansas commission on veterans affairs office*, to the institution from whence the patient was originally transferred.

Sec. 49. K.S.A. 2013 Supp. 76-1939 is hereby amended to read as follows: 76-1939. The Kansas ~~veterans'~~ *commission on veterans affairs office* shall not engage in farming operations on the farm land which are part of the lands of the Kansas soldiers' home except that the *Kansas commission on veterans affairs office* may engage in and permit vegetable gardening on a portion of such lands. All such farm lands not needed or used for vegetable gardening shall be rented or leased, for a period not to exceed five years, by the *Kansas commission on veterans affairs office*, except that if the Kansas state university of agriculture and applied science shall request that such lands be rented or leased to it for agricultural experimental purposes, it shall be given preference when such lands are rented or leased. Any such rental or lease agreement shall not include any buildings or improvements other than irrigation pumps and facilities. All moneys derived from the lease or rental of such farm lands shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas soldiers' home and Mother Bickerdyke annex fee fund for the use of such soldiers' home.

Sec. 50. K.S.A. 76-1941 is hereby amended to read as follows: 76-1941. (a) The *director of the Kansas commission on ~~veterans'~~ affairs office* may enter into a written contract with any individual who is eligible for admission to the Kansas soldiers' home under K.S.A. 76-1908, and amendments thereto, to authorize the construction of a single-family dwelling for use as a home for such individual and such individual's family members on the real property of the Kansas soldiers' home in accordance with rules and regulations adopted by the *director of the Kansas commission on veterans affairs office* under this section. Each such dwelling shall be constructed and maintained: (1) At the expense of the individual entering into a contract with the ~~commission~~ *director* under this section, including any required sewer, water and utility connections;; (2) at a location on the real property of the Kansas soldiers' home approved in accordance with rules and regulations adopted by the ~~commission~~ *director* under this section;; and (3) in accordance with the building design, construction and materials standards as authorized or prescribed by rules and regulations adopted by the ~~commission~~ *director* under this section.

(b) The *director of the Kansas commission on veterans affairs office*

shall grant a life estate to each individual who enters into a contract under this section and who constructs a dwelling at the Kansas soldiers' home in accordance with this section and the rules and regulations adopted by the ~~commission~~ *director* under this section. The life estate shall be for the dwelling and the tract of real property that the dwelling is constructed on, as specified in the contract entered into under this section, for the life of the individual and the lives of such individual's family members who are residing in the dwelling. Each life estate granted by the ~~commission~~ *director* under this section shall be approved as to form and legality by the attorney general.

(c) At the end of each life estate granted under this section, the dwelling and real estate which is the subject of the life estate shall revert to the Kansas soldiers' home and such dwelling and real estate shall be used for housing of veterans and other eligible individuals admitted to the Kansas soldiers' home as provided by statute.

(d) The *director of the Kansas commission on veterans affairs office* shall adopt rules and regulations prescribing policies and procedures for the construction and maintenance of single-family dwellings on the real estate of Kansas soldiers' home, prescribing building design, construction and materials standards for such dwellings, and for such other matters as may be required for the implementation and administration of this section. No rule and regulation shall be adopted by the *director of the Kansas commission on veterans affairs office* under this subsection unless the *director of the Kansas commission on veterans affairs office* first has advised and consulted with the joint committee on state building construction and has presented such proposed rule and regulation to the joint committee on state building construction.

(e) As used in this section, "family members" includes the spouse of an individual who has entered into a contract under this section, the widow or widower of an individual who has entered into a contract under this section, and the mother, father or minor child of an individual who has entered into a contract under this section, if such mother, father or minor child is incapable of self-support because of physical disability.

Sec. 51. K.S.A. 76-1951 is hereby amended to read as follows: 76-1951. (a) On and after January 1, 1998, the Kansas commission on veterans affairs *office* shall operate a Kansas veterans' home to be located on the grounds of Winfield state hospital and training center. The *director of the Kansas commission on veterans affairs office* and the secretary ~~of social and rehabilitation for aging and disability services~~ shall enter into an agreement concerning property, premises, facilities, installations, equipment and records of Winfield state hospital and training center which will be transferred to the *director of the Kansas commission on veterans affairs office* for the purpose of establishing and operating the Kansas veterans' home. The agreement shall establish the timing of any

such transfers. Any conflict as to the proper disposition of property or records arising under this section shall be determined by the governor, whose decision shall be final.

(b) The *director of the Kansas commission on veterans affairs office* shall have full control of the Kansas veterans' home, the property, effects, supervision and management of the home.

(c) The *director of the Kansas commission on veterans affairs office* may enter into an agreement with the United States department of veterans affairs for the use and operation of the nursing care unit of the Wichita veterans administration medical center in Wichita, Kansas, as a long-term care unit of the Kansas veterans' home, which shall be known as the Kansas veterans' home long-term care annex. The Kansas veterans' home long-term care annex shall be operated as a part of the Kansas veterans' home and shall be construed to be part of the Kansas veterans' home for all purposes under statutes governing or referring to the Kansas veterans' home.

~~(d) A superintendent of the Kansas veterans' home shall be appointed by the Kansas commission on veterans affairs, and shall serve at the pleasure of the commission. The superintendent shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the Kansas commission on veterans affairs, with the approval of the governor. The superintendent of the Kansas veterans' home shall perform such duties and exercise such powers as the commission may prescribe, and such duties and powers as are prescribed by law. A superintendent of the Kansas veterans' home shall be appointed by the director of the Kansas commission on veterans affairs office in accordance with K.S.A. 73-1210a, and amendments thereto.~~

Sec. 52. K.S.A. 76-1952 is hereby amended to read as follows: 76-1952. The *director of the Kansas commission on veterans affairs office* shall establish rates of charges to be made to members and patients of the Kansas veterans' home. The charges in the first year of operation of the Kansas veterans' home shall not exceed an amount equal to the per diem cost of care for the Kansas soldiers' home for the preceding year or the charge made against patients under K.S.A. 59-2006, and amendments thereto, whichever is less, and thereafter the charges shall not exceed an amount equal to the per diem cost of care for the Kansas veterans' home for the preceding year or the charge made against patients under K.S.A. 59-2006, and amendments thereto, whichever is the lesser amount. No action shall be commenced by the *director of the Kansas commission on veterans affairs office* against a member or patient or the estate of a member or patient for the recovery of any such charges unless such action is commenced within five years after the date such charges are incurred. ~~The commission~~ *director of the Kansas commission on veterans affairs office* may compromise and settle any claim for charges under this section,

and may, upon payment of a valuable consideration by the member or patient or the estate of the member or patient, discharge and release such member, patient or estate of any or all past liability incurred under this section due or claim to be due from a member or a patient or the estate of the member or patient, no action shall thereafter be brought or claim made for any amounts due for charges incurred prior to the effective date of the agreement entered into, except for the amounts provided for in the agreement. Nothing in this act shall be deemed to extend the period specified in K.S.A. 59-2239, and amendments thereto, for the purposes therein specified.

Sec. 53. K.S.A. 2013 Supp. 76-1953 is hereby amended to read as follows: 76-1953. The superintendent of the Kansas veterans' home shall remit all moneys received by or for the superintendent under this act and all moneys received from the United States department of veterans affairs for reimbursements for the care of residents to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the veterans' home fee fund which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~executive~~ director of the Kansas commission on veterans affairs *office* or by a person or persons designated by the ~~executive~~ director.

Sec. 54. K.S.A. 76-1954 is hereby amended to read as follows: 76-1954. (a) The following, subject to the rules and regulations that may be adopted by the *director of the* Kansas commission on veterans affairs *office* for the management and government of the Kansas veterans' home, shall be eligible to admission to the Kansas veterans' home:

(1) Any person who served in the active military service of the United States during any period of war, or who served in the active military service of the United States during peacetime and is entitled to veterans affairs hospitalization or domiciliary care under title 38 of the United States code and federal veterans affairs rules and regulations, and who has been discharged or relieved therefrom under conditions other than dishonorable, who may be disabled by disease, wounds, old age or otherwise disabled, and who, by reason of such disability, is incapacitated from earning a living; and

(2) the widow, mother, widower, father or minor child of any person who qualified under paragraph (1) of subsection (a), if such widow, mother, widower, father or minor child is incapable of self-support because of physical disability.

(b) No person shall be admitted to the veterans' home except upon application to the *Kansas commission on veterans affairs office* and ap-

proval of the application by the *director of the Kansas commission on veterans affairs office*. No applicant shall be admitted to the veterans' home who has not been an actual resident of the state of Kansas for at least two years next preceding the date of application.

(c) No person shall be admitted to or retained in the veterans' home who has been convicted of a felony, unless the *director of the Kansas commission on veterans affairs office* finds that such person has been adequately rehabilitated and is not dangerous to oneself or to the person or property of others.

(d) No child shall be admitted to or retained in the veterans' home who is 16 years of age or over, unless such child is incapable of supporting oneself.

(e) No child properly a member of the veterans' home shall be discharged under 16 years of age.

(f) The *director of the Kansas commission on veterans affairs office* shall have authority by resolution to discharge any member from the veterans' home on a showing that the member has gained admittance into the veterans' home by misrepresentation of the member's financial or physical condition, or a showing that the financial or physical condition of such member has been so altered since admittance so that the further maintenance of the member in the veterans' home is not justified. No such member shall be discharged without notice and opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(g) The rules and regulations for admission of members to the Kansas veterans' home:

(1) Shall require that a veteran who has no adequate means of support, and such members of the family as are dependent upon such person for support, shall be given priority over other applicants for admission; and

(2) shall require that an applicant for admission be given priority over patients transferred from state institutions under the provisions of K.S.A. 76-1958, and amendments thereto.

Sec. 55. K.S.A. 76-1955 is hereby amended to read as follows: 76-1955. (a) The *director of the Kansas commission on veterans affairs office* shall have the authority to establish rules and regulations for the management and operation of the Kansas veterans' home and governing conduct and discipline of the members of and other persons in the Kansas veterans' home. Such rules and regulations shall be filed with the secretary of state as provided by law.

(b) The superintendent of the Kansas veterans' home shall enforce such rules and regulations, and the superintendent may furlough any member for violation of such rules.

(c) The *director of the Kansas commission on veterans affairs office*

may discharge any member who violates such rules and regulations, except that no member shall be discharged without notice to such member and a right to be heard concerning such charges in accordance with the provisions of the Kansas administrative procedure act.

(d) If any member shall seek an injunction or restraining order to restrain the *director of the Kansas commission on veterans affairs office* or the officers of such Kansas veterans' home from enforcing such rules and regulations or to restrain disciplinary action, during the pendency of such legal proceedings, such member and the member's dependents, if any, shall not be entitled to draw subsistence or rations as provided for by such home.

(e) If any member of such veterans' home shall refuse to vacate the premises upon receiving a furlough from the officers designated to enforce the rules and regulations, such refusal shall constitute a forfeiture of such member's right to remain in the home and such member shall be forthwith discharged by the *director of the Kansas commission on veterans affairs office*.

(f) If any member shall refuse to vacate the premises upon being discharged by the *director of the Kansas commission on veterans affairs office*, such member shall forthwith forfeit the member's right to subsistence and rations for such member and dependents, if any, and the *director of the Kansas commission on veterans affairs office* shall institute legal proceedings to force such member to vacate the premises.

(g) The word "member" as used in this act shall refer to any person legally admitted as a member or any dependent of such member, or any person drawing subsistence or quarters in the Kansas veterans' home for any reason whatsoever, except the employees of such veterans' home. The word "member" shall not include any person transferred to the veterans' home from any state hospital or training school.

Sec. 56. K.S.A. 76-1956 is hereby amended to read as follows: 76-1956. The *director of the Kansas commission on veterans affairs office* shall designate a person at the Kansas veterans' home who shall be in charge of the member funds at such veterans' home. The person so designated shall have custody and charge of all moneys belonging to the members, or patients residing in the Kansas veterans' home, which are held for their use, benefit and burial. The *director of the Kansas commission on veterans affairs office* shall designate the bank or banks, in which such moneys shall be deposited, ~~and shall provide that any sums in excess of \$5,000 shall be deposited with the state treasurer for safe-keeping. Any fund so deposited with the state treasurer shall be held by the state treasurer, separate and apart from the other funds in the custody of the state treasurer, and may be withdrawn by the person designated by the Kansas commission on veterans affairs.~~

Sec. 57. K.S.A. 76-1957 is hereby amended to read as follows: 76-

1957. (a) The custodian of the members and patients trust fund at the Kansas veterans' home shall notify the ~~executive~~ director of the Kansas commission on veterans affairs *office* of any moneys which are under the custodian's charge belonging to members who have died intestate, without known heirs or designated beneficiaries for funds on deposit, and the ~~executive~~ director shall publish a notice for two consecutive weeks in the Kansas register which shall state the name of each deceased member, their last known home address and the amount of the deposit remaining in the account of such former member; and such notice shall further state that unless interested persons appear and file a legitimate claim therefor within one year after the date of the last publication of such notice, such amount or amounts will be transferred to the general fees fund of the veterans' home to help defray unrecovered costs connected with the maintenance and operation of the veterans' home and for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services which are performed on behalf of such agency by other state agencies.

(b) Unless a party entitled thereto makes claim within the time stated in the notice, the balance in any former member's fund as so published for which no claim is made as prescribed in this section shall be transferred as provided in this section. Thereafter, unless a claim is filed with the *Kansas* commission on veterans affairs *office* within two years after such transfer is made, no claim may be made or filed for such former member's fund except that a person under legal disability during the two-year period may file a claim within one year after removal of the disability. The *director of the Kansas* commission on veterans affairs *office* is hereby authorized to make payments to claimants it shall determine are entitled thereto, if such claims otherwise comply with the terms of this act; and such payments shall be authorized from the general fees fund of the Kansas veterans' home to which the former member's funds were transferred.

Sec. 58. K.S.A. 76-1958 is hereby amended to read as follows: 76-1958. (a) The commissioner of mental health and developmental disabilities of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services, with the approval of the secretary of ~~social and rehabilitation~~ *for aging and disability* services and the *director of the Kansas* commission on veterans affairs *office*, may transfer patients in the state hospitals in Topeka, Osawatomie and Larned and patients in the Rainbow mental health facility, the Parsons state hospital and training center and the Winfield state hospital and training center who have served in the military or naval forces of the United States or whose husband, wife, father, son or daughter has served in the active military or naval service of the United States during any period of any war as defined in K.S.A. 76-1954, and amendments thereto, and was discharged or relieved therefrom under conditions other than dishonorable, to the Kansas vet-

erans' home. No patient who is such a mentally ill person, in the opinion of the commissioner of mental health and developmental disabilities, that because of such patient's illness such patient is likely to injure oneself or others shall be so transferred to such Kansas veterans' home, and no such patient shall be so transferred if such transfer will deny admission to persons entitled to admission under K.S.A. 76-1954, and amendments thereto, and rules and regulations promulgated thereunder. Persons so transferred shall not be considered as members of the Kansas veterans' home but shall be considered as patients therein.

(b) All of the laws, rules and regulations relating to patients in the above-specified state hospitals and mental health facilities shall be applicable to such patients so transferred insofar as the same can be made applicable. Any patient so transferred who is found to be or shall become such a mentally ill person, in the opinion of the commissioner of mental health and developmental disabilities, that because of such patient's illness such patient is likely to injure oneself or others or who is determined to need additional psychiatric treatment, shall be retransferred by the superintendent of the Kansas veterans' home, with the approval of the commissioner of mental health and developmental disabilities *and the director of the Kansas commission on veterans affairs office*, to the institution from which the patient was originally transferred.

Sec. 59. K.S.A. 2013 Supp. 79-3221k is hereby amended to read as follows: 79-3221k. (a) For all tax years commencing after December 31, 2011, each Kansas state individual income tax return form shall contain a designation as follows:

Kansas Hometown Heroes Fund. Check if you wish to donate, in addition to your tax liability, or designate from your refund, \_\_\_\_\_\$1, \_\_\_\_\_\$5, \_\_\_\_\_\$10 or \$\_\_\_\_\_.

(b) The director of taxation of the department of revenue shall determine annually the total amount designated for contribution to the Kansas hometown heroes fund pursuant to subsection (a) and shall report such amount to the state treasurer who shall credit the entire amount thereof to the Kansas hometown heroes fund which fund is hereby established in the state treasury. All moneys deposited in such fund shall be used solely for the purpose of funding the continued operations of the veteran services program of the Kansas commission on veterans affairs *office*. In the case where donations are made pursuant to subsection (a), the director shall remit the entire amount thereof to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of such fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued

pursuant to vouchers approved by the ~~executive~~ director of the Kansas commission on veterans affairs *office*.

Sec. 60. K.S.A. 73-209, 73-210, 73-1207, 73-1208b, 73-1208c, 73-1211, 73-1220, 73-1222, 73-1223, 73-1224, 73-1225, 73-1226, 73-1227, 73-1229, 73-1230, 73-1231, 73-1232, 76-1904, 76-1904a, 76-1908, 76-1927, 76-1928, 76-1929, 76-1931, 76-1932, 76-1935, 76-1935a, 76-1936, 76-1941, 76-1951, 76-1952, 76-1954, 76-1955, 76-1956, 76-1957 and 76-1958; K.S.A. 2012 Supp. 74-2012, as amended by section 3 of chapter 74 of the 2013 Session Laws of Kansas and K.S.A. 2013 Supp. 39-923, 65-1732, 65-2418, 73-1208a, 73-1209, 73-1210a, 73-1217, 73-1218, 73-1219, 73-1233, 73-1234, 73-1235, 73-1236, 73-1238, 73-1239, 73-1241, 73-1242, 73-1243, 75-3370, 75-4362, 76-6b05, 76-1906, 76-1939, 76-1953 and 79-3221k are hereby repealed.

Sec. 61. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 17, 2014.

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## CHAPTER 84

### SENATE BILL No. 311

AN ACT concerning civil procedure and civil actions; relating to noneconomic damages cap; expert or other testimony; repealing statutes pertaining to collateral source benefits; amending K.S.A. 60-456, 60-457, 60-458 and 60-19a02 and repealing the existing sections; also repealing K.S.A. 60-3801, 60-3802, 60-3803, 60-3804, 60-3805, 60-3806 and 60-3807.

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

Section 1. K.S.A. 60-19a02 is hereby amended to read as follows: 60-19a02. (a) As used in this section “personal injury action” means any action seeking damages for personal injury or death.

(b) In any personal injury action, the total amount recoverable by each party from all defendants for all claims for noneconomic loss shall not exceed a sum total of:

(1) \$250,000 for causes of action accruing on or after July 1, 1988, and before July 1, 2014;

(2) \$300,000 for causes of action accruing on or after July 1, 2014, and before July 1, 2018;

(3) \$325,000 for causes of action accruing on or after July 1, 2018, and before July 1, 2022; or

(4) \$350,000 for causes of action accruing on or after July 1, 2022.

(c) In every personal injury action, the verdict shall be itemized by the trier of fact to reflect the amount awarded for noneconomic loss.

(d) If a personal injury action is tried to a jury, the court shall not

instruct the jury on the limitations of this section. If the verdict results in an award for noneconomic loss which exceeds the limit of this section, the court shall enter judgment for ~~\$250,000~~ for all the party's claims for noneconomic loss *in the amount of:*

- (1) \$250,000 for causes of action accruing on or after July 1, 1988, and before July 1, 2014;
- (2) \$300,000 for causes of action accruing on or after July 1, 2014, and before July 1, 2018;
- (3) \$325,000 for causes of action accruing on or after July 1, 2018, and before July 1, 2022; or
- (4) \$350,000 for causes of action accruing on or after July 1, 2022.

Such entry of judgment by the court shall occur after consideration of comparative negligence principles in K.S.A. 60-258a, and amendments thereto.

(e) The provisions of this section shall not be construed to repeal or modify the limitation provided by K.S.A. 60-1903, and amendments thereto, in wrongful death actions.

(f) The provisions of this section shall apply only to personal injury actions which are based on causes of action accruing on or after July 1, 1988.

Sec. 2. K.S.A. 60-456 is hereby amended to read as follows: 60-456.

(a) If the witness is not testifying as an expert ~~his or her~~, *the* testimony in the form of opinions or inferences is limited to such opinions or inferences as the judge finds ~~(a): (1) May be~~ *Are* rationally based on the perception of the witness; ~~and (b) (2) are helpful to a clearer understanding of his or her testimony~~ *the testimony of the witness; and (3) are not based on scientific, technical or other specialized knowledge within the scope of subsection (b).*

(b) ~~If the witness is testifying as an expert, testimony of the witness in the form of opinions or inferences is limited to such opinions as the judge finds are (1) based on facts or data perceived by or personally known or made known to the witness at the hearing and (2) within the scope of the special knowledge, skill, experience or training possessed by the witness. If scientific, technical or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue, a witness who is qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise if: (1) The testimony is based on sufficient facts or data; (2) the testimony is the product of reliable principles and methods; and (3) the witness has reliably applied the principles and methods to the facts of the case.~~

(c) Unless the judge excludes the testimony ~~he or she~~, *the judge* shall be deemed to have made the finding requisite to its admission.

(d) Testimony in the form of opinions or inferences otherwise ad-

missible under this article is not objectionable because it embraces the ultimate issue or issues to be decided by the trier of the fact.

Sec. 3. K.S.A. 60-457 is hereby amended to read as follows: 60-457. (a) *If a witness is not testifying as an expert, the judge may require that a witness before testifying in terms of opinion or inference be first examined concerning the facts or data upon which the opinion or inference is founded.*

(b) *If a witness is testifying as an expert, upon motion of a party, the court may hold a pretrial hearing to determine whether the witness qualifies as an expert and whether the witness's testimony satisfies the requirements of subsection (b) of K.S.A. 60-456, and amendments thereto. The court shall allow sufficient time for a hearing. The court shall rule on the qualifications of the witness to testify as an expert and whether or not the testimony satisfies the requirements of subsection (b) of K.S.A. 60-456, and amendments thereto. Such hearing and ruling shall be completed no later than the final pretrial conference contemplated under subsection (d) of K.S.A. 60-216, and amendments thereto.*

Sec. 4. K.S.A. 60-458 is hereby amended to read as follows: 60-458. ~~Questions calling for the opinion of an expert witness need not be hypothetical in form unless the judge in his or her discretion so requires, but the witness may state his or her opinion and reasons therefor without first specifying data on which it is based as an hypothesis or otherwise; but upon cross-examination the witness may be required to specify such data.~~ *The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible into evidence in order for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference unless the court determines that the probative value of such facts or data in assisting the jury to evaluate the expert's opinion substantially outweighs any prejudicial effect.*

New Sec. 5. If any provision or clause of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect the other provisions or applications of the act, and to this end the provisions of this act are declared to be severable.

Sec. 6. K.S.A. 60-456, 60-457, 60-458, 60-19a02, 60-3801, 60-3802, 60-3803, 60-3804, 60-3805, 60-3806 and 60-3807 are hereby repealed.

Sec.7. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 85

## House Substitute for SENATE BILL No. 40

AN ACT concerning the secretary of corrections; relating to the prison-made goods act; correctional industries fund; amending K.S.A. 2013 Supp. 75-5275 and 75-5282 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 75-5275 is hereby amended to read as follows: 75-5275. (a) The secretary is hereby authorized to purchase in the manner provided by law, equipment, raw materials and supplies, and to employ the supervisory personnel necessary to establish and maintain for this state at each correctional institution, industries for the utilization of services of inmates *or juvenile offenders* in the manufacture or production of such articles or products or in providing such services as authorized by the prison-made goods act of Kansas.

(b) ~~(1)~~ The secretary is hereby authorized to sell all such articles, products and services to the federal government, any state agency, state employees for their personal use, any local agency, or any organization within the state and, to the extent not prohibited by federal law, to other states.

~~(2) In addition to the persons and entities specified in paragraph (1), the secretary is hereby authorized to sell all such articles, products and services to any individual who is a resident of the state of Kansas and to any business located within the state of Kansas.~~

~~The provisions of this paragraph (2) shall expire on June 30, 2013.~~

(c) The secretary is hereby authorized to contract with a private individual, corporation, partnership or association for work projects involving assembly, processing, fabrication or repair of parts or components for goods or products being manufactured or produced by the contracting party. Any contract authorized by this subsection shall be in compliance with federal law and shall not result in the significant displacement of employed workers in the community. If an inmate *or juvenile offender* receives at least federal minimum wage pursuant to a contract authorized by this subsection, the provisions of K.S.A. 75-5211 and 75-5268, and amendments thereto, for withdrawing amounts from the compensation paid to inmates *or juvenile offenders* shall apply.

(d) The secretary is hereby authorized to contract with a private individual, corporation, partnership or association for work projects involving the repair of real estate damaged by a tenant under the release supervision of the department of corrections.

Sec. 2. K.S.A. 2013 Supp. 75-5282 is hereby amended to read as follows: 75-5282. (a) There is hereby created in the state treasury the correctional industries fund.

(b) All moneys collected by the secretary from the sale or disposition

of goods manufactured and services provided under the prison-made goods act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the correctional industries fund. All the moneys collected and deposited pursuant to this subsection shall be used solely for the purchase of manufacturing supplies, equipment and machinery, for the repair, maintenance and replacement of equipment and machinery, for administrative expenses and as provided in subsection (d).

(c) The balance of all proceeds from the lease of agricultural land at a correctional institution, after payment of the expenses of the lease from such proceeds, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the correctional industries fund.

(d) Any unencumbered moneys in the correctional industries fund may be expended for capital improvement projects for the renovation or repair of existing buildings or facilities or for the construction or acquisition of building or facilities for correctional industries as provided in K.S.A. 75-5281 and 75-5288, and amendments thereto. Such capital improvement projects shall not be subject to the requirements to prepare and submit capital improvement budget estimates as provided in K.S.A. 75-3717b, and amendments thereto. Prior to commencement of a capital improvement project, the director of Kansas correctional industries shall advise and consult with the joint committee on state building construction concerning such capital improvement projects.

*(e) Moneys in the correctional industries fund may be used for purchase of workers compensation insurance for inmates assigned to a duly certified prison industry enhancement certification program (PIECP) customer model industry owned and operated by Kansas correctional industries pursuant to 18 U.S.C. § 1761 and K.S.A. 75-5275, and amendments thereto. Subject to PIECP wage-level requirements, such inmates shall otherwise be considered to be in the same status as inmates assigned to a traditional industries program operated by Kansas correctional industries. Such inmates shall not be regarded as state employees for any purpose under state law.*

Sec. 3. K.S.A. 2013 Supp. 75-5275 and 75-5282 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 86

SENATE BILL No. 265

(Amended by Chapters 117 and 132)

AN ACT concerning taxation; relating to homestead refund, income defined, eligibility; deductions, self-employment taxes, expenses related to organ donations and net gain on sale of certain livestock; withholding, non-resident pass-through entity income; credits, adoption expenses and expenditures to make dwelling or facility accessible for persons with a disability; Kansas taxpayer transparency act, sunset; sales tax exemptions; amending K.S.A. 2013 Supp. 74-72,122, 79-32,117, 79-32,177, 79-32,263, 79-3606 and 79-4502 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 74-72,126 and 79-32,100e.

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

Section 1. K.S.A. 2013 Supp. 79-32,263 is hereby amended to read as follows: 79-32,263. This act shall be known and may be cited as the selective assistance for effective senior relief (SAFESR). There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, the following: (a) For tax years 2008, 2009 and 2010, an amount equal to 45% of the amount of property and ad valorem taxes actually and timely paid as described in this section; and (b) for tax year 2011 and all tax years thereafter, an amount equal to 75% of the amount of property and ad valorem taxes actually and timely paid by a taxpayer who is 65 years of age or older and who has household income equal to or less than 120% of the federal poverty level for two persons if such taxes were paid upon real or personal property used for residential purposes of such taxpayer which is the taxpayer's principal place of residence for the tax year in which the tax credit is claimed. The amount of any such credit for any such taxpayer shall not exceed the amount of property and ad valorem taxes paid by such taxpayer as specified in this section. A taxpayer shall not take the credit pursuant to this section if such taxpayer has received a homestead property tax refund pursuant to K.S.A. 79-4501 et seq., and amendments thereto, for such property for such tax year. Subject to the provisions of this section, if the amount of such tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount of such excess credit which exceeds such tax liability shall be refunded to the taxpayer. The secretary of revenue shall adopt rules and regulations regarding the filing of documents that support the amount of the credit claimed pursuant to this section. For purposes of this section, "household income" means all income *as defined in K.S.A. 79-4502(a), and amendments thereto*, including *any* payments received under the federal social security act, received by persons of a household in a calendar year while members of such household. The provisions of this act shall be part of and supplemental to the homestead property tax refund act.

Sec. 2. K.S.A. 2013 Supp. 79-4502 is hereby amended to read as

follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) “Income” means the sum of adjusted gross income under the Kansas income tax act *effective for tax year 2013 and thereafter without regard to any modifications pursuant to K.S.A. 79-32,117(b)(xx) through (xxiii) and (c)(xx), and amendments thereto*, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including but not limited to, all payments received under the railroad retirement act, except disability payments, payments received under the federal social security act, except that for determination of what constitutes income such amount shall not exceed 50% of any such social security payments and shall not include any social security payments to a claimant who prior to attaining full retirement age had been receiving disability payments under the federal social security act in an amount not to exceed the amount of such disability payments or 50% of any such social security payments, whichever is greater, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of “loss of time” insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions. Income does not include disability payments received under the federal social security act.

(b) “Household” means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) “Household income” means all income received by all persons of a household in a calendar year while members of such household.

(d) “Homestead” means the dwelling, or any part thereof, owned and occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. “Owned” includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(e) “Claimant” means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older; (3) a disabled veteran; (4) the surviving spouse of active duty military personnel who died in the line of duty; or (5) a person

other than a person included under (1), (2), (3) or (4) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year immediately preceding the year in which a claim is filed under this act. The surviving spouse of a disabled veteran who was receiving benefits pursuant to subsection (e)(3) of this section at the time of the veterans' death, shall be eligible to continue to receive benefits until such time the surviving spouse remarries.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering

age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of 20/200 or less.

(i) "Disabled veteran" means a person who is a resident of Kansas and has been honorably discharged from active service in any branch of the armed forces of the United States or Kansas national guard and who has been certified by the United States department of veterans affairs or its successor to have a 50% permanent disability sustained through military action or accident or resulting from disease contracted while in such active service.

Sec. 3. K.S.A. 2013 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after Decem-

ber 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments thereto.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2013 Supp. 79-32,204, and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203, and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2013 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2013 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2013 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2013 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2013 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2013 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2013 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2013 Supp. 79-32,256, and amendments thereto.

(xviii) For taxable years commencing after December 31, 2006, the amount of any ad valorem or property taxes and assessments paid to a state other than Kansas or local government located in a state other than Kansas by a taxpayer who resides in a state other than Kansas, when the law of such state does not allow a resident of Kansas who earns income in such other state to claim a deduction for ad valorem or property taxes

or assessments paid to a political subdivision of the state of Kansas in determining taxable income for income tax purposes in such other state, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xix) For all taxable years beginning after December 31, 2012, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) loss from rental real estate, royalties, partnerships, S corporations, except those with wholly owned subsidiaries subject to the Kansas privilege tax, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service.

(xx) For all taxable years beginning after December 31, 2012, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer, *to the extent the deduction is attributable to income reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income tax return.*

(xxi) For all taxable years beginning after December 31, 2012, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxii) For all taxable years beginning after December 31, 2012, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiii) For all taxable years beginning after December 31, 2012, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiv) For taxable years commencing after December 31, 2013, that

portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid for medical care of the taxpayer or the taxpayer's spouse or dependents when such expenses were paid or incurred for an abortion, or for a health benefit plan, as defined in K.S.A. 2013 Supp. 65-6731, and amendments thereto, for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2013 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xxv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2013 Supp. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2013 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as a deduction for federal income tax purposes.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. § 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249, and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2013 Supp. 74-50,201 et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. For all taxable years beginning after December 31,

2012, the amount of modification under this subsection shall exclude the portion of income or loss reported on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.

(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2013 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(xvi) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are or were members of the armed forces of the United States, including service in the Kansas army and air national guard, as a recruitment, sign up or retention bonus received by such taxpayer as an incentive to join, enlist or remain in the armed services of the United States, including service in the Kansas army and air national guard, and amounts received for repayment of educational or student loans incurred by or obligated to such taxpayer and received by such taxpayer as a result of such taxpayer's service in the armed forces of the United States, including service in the Kansas army and air national guard.

(xvii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are eligible members of the Kansas army and air national guard as a reimbursement pursuant to K.S.A. 48-281, and amendments thereto, and amounts received for death benefits pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and amendments thereto, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.

(xviii) For the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

(xix) Amounts received by retired employees of Washburn university as retirement and pension benefits under the university's retirement plan.

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

(xxi) *For all taxable years beginning after December 31, 2013, amounts equal to the unreimbursed travel, lodging and medical expenditures directly incurred by a taxpayer while living, or a dependent of the taxpayer while living, for the donation of one or more human organs of the taxpayer, or a dependent of the taxpayer, to another person for human organ transplantation. The expenses may be claimed as a subtraction modification provided for in this section to the extent the expenses are not already subtracted from the taxpayer's federal adjusted gross income. In no circumstances shall the subtraction modification provided for in this section for any individual, or a dependent, exceed \$5,000. As used in this section, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung or bone marrow. The provisions of this paragraph shall take effect on the day the secretary of revenue certifies to the director of the budget that the cost for the department of revenue of modifications to the automated tax system for the purpose of implementing this paragraph will not exceed \$20,000.*

(xxii) *For all taxable years beginning after December 31, 2012, the amount of net gain from the sale of: (1) Cattle and horses, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 24 months or more from the date of acquisition; and (2) other livestock, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 12 months or more from the date of acquisition. The subtraction from federal adjusted gross income shall be limited to the amount of the additions recognized under the provisions of paragraph (xix) of subsection (b) attributable to the business in which the livestock sold had been used. As used in this paragraph, the term "livestock" shall not include poultry.*

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

New Sec. 4. Commencing in tax year 2014, and all tax years thereafter, and in addition to the credit provided in subsection (b), there shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to: (1) 25% of the amount of the credit allowed against such taxpayer's federal income tax liability pursuant to section 23 of the federal internal revenue code determined without regard to subsection (c) of such section; (2) in addition to subsection (a)(1), 25% of the amount of such federal income tax credit, if the child adopted by the taxpayer was a resident of Kansas prior to such lawful adoption; and (3) in addition to subsections (a)(1) and (a)(2), 25% of the amount of such federal income tax credit, if the child adopted by the taxpayer is a child with special needs, as defined in section 23 of the federal internal revenue code, and the child was a resident of Kansas prior to such lawful adoption, for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) Commencing in tax year 2014, and all tax years thereafter, there shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to \$1,500 for the taxable year in which occurs the lawful adoption of a child in the custody of the secretary for children and families or a child with special needs, whether or not such individual is reimbursed for all or part of qualified adoption expenses or has received a public or private grant therefor. As used in this subsection, terms and phrases shall have the meanings ascribed thereto by the provisions of section 23 of the federal internal revenue code.

(c) The credit allowed by subsections (a) and (b) shall not exceed the amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto, reduced by the sum of any other credits allowable pursuant to law. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credits has been deducted from tax liability.

New Sec. 5. (a) Any resident individual taxpayer who makes expenditures for the purpose of making all or any portion of an existing facility

accessible to individuals with a disability, which facility is used as, or in connection with, such taxpayer's principal dwelling or the principal dwelling of a lineal ascendant or descendant, including construction of a small barrier-free living unit attached to such principal dwelling, shall be entitled to claim a tax credit in an amount equal to the applicable percentage of such expenditures or \$9,000, whichever is less, against the income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Nothing in this subsection shall be deemed to prevent any such taxpayer from claiming such credit: (1) For each principal dwelling in which the taxpayer or lineal ascendant or descendant may reside, or facility used in connection therewith; or (2) more than once, but not more often than once every four-year period of time. The applicable percentage of such expenditures eligible for credit shall be as set forth in the following schedule:

Taxpayers Federal Adjusted Gross Income	% of expenditures eligible for credit
\$0 to \$25,000 .....	100%
Over \$25,000 but not over \$30,000 .....	90%
Over \$30,000 but not over \$35,000 .....	80%
Over \$35,000 but not over \$40,000 .....	70%
Over \$40,000 but not over \$45,000 .....	60%
Over \$45,000 but not over \$55,000 .....	50%
Over \$55,000 .....	0

Such tax credit shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made.

(b) Notwithstanding the provisions of subsection (a), if the amount of the taxpayer's tax liability is less than \$2,250 in the first year in which the credit is claimed under this section, an amount equal to the amount by which  $\frac{1}{4}$  of the credit allowable under this section exceeds such tax liability shall be refunded to the taxpayer and the amount by which such credit exceeds such tax liability less the amount of such refund may be carried over for the next three succeeding taxable years. If the amount of the taxpayer's tax liability is less than \$2,250 in the second year in which the credit is claimed under this section, an amount equal to the amount

by which  $\frac{1}{3}$  of the amount of the credit carried over from the first taxable year exceeds such tax liability shall be refunded to the taxpayer and the amount by which the amount of the credit carried over from the first taxable year exceeds such tax liability less the amount of such refund may be carried over for the next two succeeding taxable years. If the amount of the taxpayer's tax liability is less than \$2,250 in the third year in which the credit is claimed under this section, an amount equal to the amount by which  $\frac{1}{2}$  of the amount carried over from the second taxable year exceeds such tax liability shall be refunded to the taxpayer and the amount by which the amount of the credit carried over from the second taxable year exceeds such tax liability less the amount of such refund may be carried over to the next succeeding taxable year. If the amount of the credit carried over from the third taxable year exceeds the taxpayer's income tax liability for such year, the amount thereof which exceeds such tax liability shall be refunded to the taxpayer.

(c) The provisions of this section are applicable to tax year 2013, and all tax years thereafter.

Sec. 6. K.S.A. 2013 Supp. 74-72,122 is hereby amended to read as follows: 74-72,122. K.S.A. 2013 Supp. 74-72,122 through ~~74-72,126~~ 74-72,125, and amendments thereto, shall be known and may be cited as the Kansas taxpayer transparency act.

Sec. 7. K.S.A. 2013 Supp. 79-32,177 is hereby amended to read as follows: 79-32,177. ~~(a)~~ Any taxpayer who makes expenditures for the purpose of making all or any portion of an existing facility accessible to individuals with a disability, or who makes expenditures for the purpose of making all or any portion of a facility or of equipment usable for the employment of individuals with a disability, which facility or equipment is on real property located in this state and used in a trade or business or held for the production of income, shall be entitled to claim an income tax credit in an amount equal to 50% of such expenditures or, the amount of \$10,000, whichever is less, against the income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*. Such tax credit shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made.

~~(b) For tax year 2013 and all tax years thereafter, the income tax credit provided by this section shall only be available to taxpayers subject to the~~

~~income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and shall be applied only against such taxpayer's corporate income tax liability.~~

Sec. 8. K.S.A. 2013 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301, and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross receipts from regulated sports contests taxed pursuant to the Kansas professional regulated sports act, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business; or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for

any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, a public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school, educational institution or a state correctional institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or department of corrections concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certifi-

cates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or the contractor contracting with the department of corrections for a correctional institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pur-

suant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603, and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or

without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, “drug” means a compound, substance or preparation and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages, recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, and supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or intended to affect the structure or any function of the body, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of drugs used in the performance or induction of an abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of oxygen delivery equipment, kidney dialysis equipment, enteral feeding systems, prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and repair and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hear-

ing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) “Mobility enhancing equipment” means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) “prosthetic device” means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

(s) except as provided in K.S.A. 2013 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq., and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 et seq., 19-3522 et seq., or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term “farm machinery and equipment or aquaculture machinery and equipment” shall include a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, and is equipped with a bed or cargo box for hauling materials, and shall also include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto. “Farm machinery and equipment” includes precision farming equipment that is portable or is installed or purchased to be installed on farm machinery and equipment. “Precision farming equipment” includes the following items used only in computer-assisted farming, ranching or aquaculture production operations: Soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guiding systems, modems, data communications equipment and any necessary mounting hardware, wiring and antennas. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment

or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of tangible personal property to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of tangible personal property for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose, and all sales of food products by or on behalf of any such contractor or organization for any such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b, *Second* through *Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of natural gas, electricity and heat delivered through mains, lines or pipes pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions of this subsection shall expire on December 31, 2005;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises occurring prior to January 1, 2006;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418, and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of

liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) “Mobile homes” and “manufactured homes” shall have the meanings ascribed thereto by K.S.A. 58-4202, and amendments thereto; and (2) “sales of used mobile homes or manufactured homes” means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased prior to January 1, 2012, except as otherwise provided, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115, and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business, and all sales of tangible personal property or services purchased on or after January 1, 2012, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business which meets the requirements established in K.S.A. 74-50,115(e), and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. As used in this subsection, “business” and “retail business” have the meanings respectively ascribed thereto by K.S.A. 74-50,114, and amendments thereto. Project exemption certificates that have been previously issued under this subsection by the department of revenue pursuant to K.S.A. 74-50,115, and amendments thereto, but not including K.S.A. 74-50,115(e), and amendments thereto, prior to January

1, 2012, and have not expired will be effective for the term of the project or two years from the effective date of the certificate, whichever occurs earlier. Project exemption certificates that are submitted to the department of revenue prior to January 1, 2012, and are found to qualify will be issued a project exemption certificate that will be effective for a two-year period or for the term of the project, whichever occurs earlier;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, “mobile homes” and “manufactured homes” shall have the meanings ascribed thereto by K.S.A. 58-4202, and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment, including durable medical equipment, purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes. As used in this subsection, “durable medical equipment” means equipment including repair and replacement parts for such equipment, which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury and is not worn in or on the body, but does not include mobility enhancing equipment as defined in subsection (r), oxygen delivery equipment, kidney dialysis equipment or enteral feeding systems;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based facility for people with intellectual disability or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto, and all sales of tangible personal property or services purchased by contractors during the time

period from July, 2003, through June, 2006, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based facility for people with intellectual disability or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) “Integrated production operation” means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) “production line” means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) “manufacturing or processing plant or facility” means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) “manufacturing or processing business” means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing opera-

tions include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) “repair and replacement parts and accessories” means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) “primary” or “primarily” mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from off-site, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor

vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of pro-

duction operations part of the time and for nonproduction ~~purpose~~ *purposes* at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such materials purchased by a nonprofit corporation which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such tangible personal property purchased by a nonprofit organization which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal

income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and ~~to~~ for education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease;

(8) the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(9) the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities;

(10) the Cystic Fibrosis Foundation, Heart of America Chapter, for

the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease;

(11) the spina bifida association of Kansas for the purpose of providing financial, educational and practical aid to families and individuals with spina bifida. Such aid includes, but is not limited to, funding for medical devices, counseling and medical educational opportunities;

(12) the CHWC, Inc., for the purpose of rebuilding urban core neighborhoods through the construction of new homes, acquiring and renovating existing homes and other related activities, and promoting economic development in such neighborhoods;

(13) the cross-lines cooperative council for the purpose of providing social services to low income individuals and families;

(14) the Dreams Work, Inc., for the purpose of providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family;

(15) the KSDS, Inc., for the purpose of promoting the independence and inclusion of people with disabilities as fully participating and contributing members of their communities and society through the training and providing of guide and service dogs to people with disabilities, and providing disability education and awareness to the general public;

(16) the lyme association of greater Kansas City, Inc., for the purpose of providing support to persons with lyme disease and public education relating to the prevention, treatment and cure of lyme disease;

(17) the Dream Factory, Inc., for the purpose of granting the dreams of children with critical and chronic illnesses;

(18) the Ottawa Suzuki Strings, Inc., for the purpose of providing students and families with education and resources necessary to enable each child to develop fine character and musical ability to the fullest potential;

(19) the International Association of Lions Clubs for the purpose of creating and fostering a spirit of understanding among all people for humanitarian needs by providing voluntary services through community involvement and international cooperation;

(20) the Johnson county young matrons, inc., for the purpose of promoting a positive future for members of the community through volunteerism, financial support and education through the efforts of an all volunteer organization;

(21) the American Cancer Society, Inc., for the purpose of eliminating cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy and service;

(22) the community services of Shawnee, inc., for the purpose of providing food and clothing to those in need;

(23) the angel babies association, for the purpose of providing assistance, support and items of necessity to teenage mothers and their babies; and

(24) the Kansas fairgrounds foundation for the purpose of the preservation, renovation and beautification of the Kansas state fairgrounds;

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may

recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor

for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center,

except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such tangible personal property and services purchased by a primary care clinic or health center which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax ex-

empt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation;

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials;

(hhh) all sales of tangible personal property and services purchased by or on behalf of all domestic violence shelters that are member agencies of the Kansas coalition against sexual and domestic violence;

(iii) all sales of personal property and services purchased by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the collection, storage and distribution of food products to nonprofit organizations which distribute such food products to persons pursuant to a food distribution program on a charitable basis without fee or charge, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities used for the collection and storage of such food products for any such organization which is exempt from federal income taxation pursuant to section

501(c)(3) of the federal internal revenue code of 1986, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 2005, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of

accounts and reports pursuant to vouchers approved by the director or the director's designee;

(jjj) all sales of dietary supplements dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (1) Contains one or more of the following dietary ingredients: A vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract or combination of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion, in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (3) is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. § 101.36;

(lll) all sales of tangible personal property and services purchased by special olympics Kansas, inc. for the purpose of providing year-round sports training and athletic competition in a variety of olympic-type sports for individuals with intellectual disabilities by giving them continuing opportunities to develop physical fitness, demonstrate courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, other special olympics athletes and the community, and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization;

(mmm) all sales of tangible personal property purchased by or on behalf of the Marillac Center, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing psycho-social-biological and special education services to children, and all sales of any such property by or on behalf of such organization for such purpose;

(nnn) all sales of tangible personal property and services purchased by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable Fund for the purpose of constructing a boundless playground which is an integrated, barrier free and developmentally advantageous play environment for children of all abilities and disabilities;

(ooo) all sales of tangible personal property by or on behalf of a public library serving the general public and supported in whole or in part with tax money or a not-for-profit organization whose purpose is to raise funds for or provide services or other benefits to any such public library;

(ppp) all sales of tangible personal property and services purchased by or on behalf of a homeless shelter which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal income tax code of 1986, and used by any such homeless shelter to provide emergency and

transitional housing for individuals and families experiencing homelessness, and all sales of any such property by or on behalf of any such homeless shelter for any such purpose;

(qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compen-

sating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(rrr) all sales of tangible personal property and services purchased by any county law library maintained pursuant to law and sales of tangible personal property and services purchased by an organization which would have been exempt from taxation under the provisions of this subsection if purchased directly by the county law library for the purpose of providing legal resources to attorneys, judges, students and the general public, and all sales of any such property by or on behalf of any such county law library;

(sss) all sales of tangible personal property and services purchased by catholic charities or youthville, hereinafter referred to as charitable family providers, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of charitable family providers for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for charitable family providers for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by charitable family providers. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for charitable family providers. When charitable family providers contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to charitable family providers a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed

upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, charitable family providers shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(tt) all sales of tangible personal property or services purchased by a contractor for a project for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum which has been granted an exemption pursuant to subsection (qq), which such home or facility is located in a city which has been designated as a qualified hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and amendments thereto, and which such project is related to the purposes of K.S.A. 75-5071 et seq., and amendments thereto, and which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit museum. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility for any such nonprofit museum. When any such nonprofit museum shall contract for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such nonprofit museum a sworn statement on a form to be provided by the director of taxation that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned

for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in a home or facility or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such nonprofit museum shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing for the prevention and treatment of child abuse and maltreatment as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of KCSL for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for KCSL for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by KCSL. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for KCSL. When KCSL contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to KCSL a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found

not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, KCSL shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(vvv) all sales of tangible personal property or services, including the renting and leasing of tangible personal property or services, purchased by Jazz in the Woods, Inc., a Kansas corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing Jazz in the Woods, an event benefiting children-in-need and other nonprofit charities assisting such children, and all sales of any such property by or on behalf of such organization for such purpose;

(www) all sales of tangible personal property purchased by or on behalf of the Frontenac Education Foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education support for students, and all sales of any such property by or on behalf of such organization for such purpose;

(xxx) all sales of personal property and services purchased by the booth theatre foundation, inc., an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of the booth theatre, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the booth theatre for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging,

ing, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after January 1, 2007, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(yyy) all sales of tangible personal property and services purchased by TLC charities foundation, inc., hereinafter referred to as TLC chari-

ties, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of encouraging private philanthropy to further the vision, values, and goals of TLC for children and families, inc.; and all sales of such property and services by or on behalf of TLC charities for any such purpose and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC charities for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC charities. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC charities. When TLC charities contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC charities a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be incorporated into the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC charities shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(zzz) all sales of tangible personal property purchased by the rotary

club of shawnee foundation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended, used for the purpose of providing contributions to community service organizations and scholarships;

(aaaa) all sales of personal property and services purchased by or on behalf of victory in the valley, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing a cancer support group and services for persons with cancer, and all sales of any such property by or on behalf of any such organization for any such purpose;

(bbbb) all sales of entry or participation fees, charges or tickets by Guadalupe health foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for such organization's annual fundraising event which purpose is to provide health care services for uninsured workers;

(cccc) all sales of tangible personal property or services purchased by or on behalf of wayside waifs, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing such organization's annual fundraiser, an event whose purpose is to support the care of homeless and abandoned animals, animal adoption efforts, education programs for children and efforts to reduce animal over-population and animal welfare services, and all sales of any such property, including entry or participation fees or charges, by or on behalf of such organization for such purpose;

(dddd) all sales of tangible personal property or services purchased by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc., both of which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment;

(eeee) all sales of tangible personal property or services purchased by or on behalf of All American Beef Battalion, Inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of educating, promoting and participating as a contact group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services;

(ffff) all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or intellectual disability, or both, and all sales of any such property by or on behalf of sheltered living, inc., for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the

purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc., for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc., contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc., a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20<sup>th</sup> day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc., shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto; ~~and~~

(gggg) all sales of game birds for which the primary purpose is use in hunting; ~~and~~

(hhhh) *all sales of tangible personal property or services purchased on or after July 1, 2014, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business identified under the North American industry classification system (NAICS) sub-sectors 1123, 1124, 112112, 112120 or 112210, and the sale and instal-*

*lation of machinery and equipment purchased for installation at any such business. The exemption provided in this subsection shall not apply to projects that have actual total costs less than \$50,000. When a person contracts for the construction, reconstruction, enlargement or remodeling of any such business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to the owner of the business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor of the contractor, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto.*

Sec. 9. K.S.A. 2013 Supp. 74-72,122, 74-72,126, 79-32,100e, 79-32,117, 79-32,177, 79-32,263, 79-3606 and 79-4502 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 17, 2014.

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## CHAPTER 87

### SENATE BILL No. 54

AN ACT concerning abortion; relating to medical emergencies; relating to the woman's-right-to-know act; amending K.S.A. 65-6704 and K.S.A. 2013 Supp. 65-4a01, 65-4a07, 65-6701, 65-6705, 65-6709, 65-6723 and 76-3308 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 65-4a01 is hereby amended to read as follows: 65-4a01. As used in K.S.A. 2013 Supp 65-4a01 through 65-4a12, and amendments thereto:

(a) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy

of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.

(b) “Ambulatory surgical center” means an ambulatory surgical center as defined in K.S.A. 65-425, and amendments thereto.

(c) “*Bodily function*” means *physical functions only*. The term “*bodily function*” does not include mental or emotional functions.

~~(d)~~(d) “Clinic” means any facility, other than a hospital or ambulatory surgical center, in which any second or third trimester, or five or more first trimester abortions are performed in a month.

~~(d)~~(e) “Department” means the department of health and environment.

~~(e)~~(f) “Elective abortion” means an abortion for any reason other than to prevent the death of the mother upon whom the abortion is performed; provided, that an abortion may not be deemed one to prevent the death of the mother based on a claim or diagnosis that she will engage in conduct which would result in her death.

~~(f)~~(g) “Facility” means any clinic, hospital or ambulatory surgical center, in which any second or third trimester elective abortion, or five or more first trimester elective abortions are performed in a month, excluding any abortion performed due to a medical emergency ~~as defined in this act, and amendments thereto~~.

~~(g)~~(h) “Gestational age” has the same meaning ascribed thereto in K.S.A. 65-6701, and amendments thereto, and shall be determined pursuant to K.S.A. 65-6703, and amendments thereto.

~~(h)~~(i) “Hospital” means a hospital as defined in subsection (a) or (b) of K.S.A. 65-425, and amendments thereto.

~~(i)~~(j) “Medical emergency” means a condition that, in a reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy ~~without first determining gestational age in order~~ to avert her death, or for which a delay necessary to ~~determine gestational age~~ *comply with the applicable statutory requirements* will create serious risk of substantial and irreversible physical impairment of a major bodily function. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible physical impairment of a major bodily function.

~~(j)~~(k) “Physician” has the same meaning ascribed thereto in K.S.A. 65-6701, and amendments thereto.

~~(k)~~(l) “Secretary” means the secretary of the department of health and environment.

Sec. 2. K.S.A. 2013 Supp. 65-4a07 is hereby amended to read as follows: 65-4a07. Except in the case of a medical emergency, ~~as defined in this act, and amendments thereto,~~ an abortion performed when the gestational age of the unborn child is 22 weeks or more shall be performed in a hospital or ambulatory surgical center licensed pursuant to this act. ~~All other abortions shall be performed in a hospital, ambulatory surgical center or facility licensed pursuant to this act.~~ All other abortions shall be performed in a facility licensed pursuant to this act, except that a hospital or ambulatory surgical center that does not meet the definition of a facility under this act and that is licensed pursuant to K.S.A. 65-425 et seq., and amendments thereto, may perform abortions.

Sec. 3. K.S.A. 2013 Supp. 65-6701 is hereby amended to read as follows: 65-6701. As used in K.S.A. 65-6701 through 65-6721, and amendments thereto:

(a) “Abortion” means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.

(b) “Bodily function” means physical functions only. The term “bodily function” does not include mental or emotional functions.

(c) “Counselor” means a person who is: (1) Licensed to practice medicine and surgery; (2) licensed to practice professional or practical nursing; (3) the following persons licensed to practice behavioral sciences: Licensed psychologists, licensed master’s level psychologists, licensed clinical psychotherapists, licensed social workers, licensed specialist clinical social workers, licensed marriage and family therapists, licensed clinical marriage and family therapists, licensed professional counselors, licensed clinical professional counselors; (4) a licensed physician assistant; or (5) a currently ordained member of the clergy or religious authority of any religious denomination or society. Counselor does not include the physician who performs or induces the abortion or a physician or other person who assists in performing or inducing the abortion.

(d) “Department” means the department of health and environment.

(e) “Fertilization” means the fusion of a human spermatozoon with a human ovum.

(f) “Gestational age” means the time that has elapsed since the first day of the woman’s last menstrual period.

(g) “Medical emergency” means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy ~~without~~

~~first determining gestational age~~ to avert the death of the woman or for which a delay necessary to ~~determine gestational age~~ *comply with the applicable statutory requirements* will create serious risk of substantial and irreversible physical impairment of a major bodily function. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible physical impairment of a major bodily function.

(h) “Minor” means a person less than 18 years of age.

(i) “Physician” means a person licensed to practice medicine and surgery in this state.

(j) “Pregnant” or “pregnancy” means that female reproductive condition of having an unborn child in the mother’s body.

(k) “Qualified person” means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, licensed marriage and family therapist, licensed master’s level psychologist, licensed clinical psychotherapist, registered nurse or physician.

(l) “Unemancipated minor” means any minor who has never been: (1) Married; or (2) freed, by court order or otherwise, from the care, custody and control of the minor’s parents.

(m) “Viable” means that stage of fetal development when it is the physician’s judgment according to accepted obstetrical or neonatal standards of care and practice applied by physicians in the same or similar circumstances that there is a reasonable probability that the life of the child can be continued indefinitely outside the mother’s womb with natural or artificial life-supportive measures.

Sec. 4. K.S.A. 65-6704 is hereby amended to read as follows: 65-6704.

(a) Before the performance of an abortion upon a minor, a counselor shall provide pregnancy information and counseling in a manner that can be understood by the minor and allows opportunity for the minor’s questions to be addressed. A parent or guardian, or a person 21 or more years of age who is not associated with the abortion provider and who has a personal interest in the minor’s well-being, shall accompany the minor and be involved in the minor’s decision-making process regarding whether to have an abortion. Such information and counseling shall include:

(1) The alternatives available to the minor, including abortion, adoption and other alternatives to abortion;

(2) an explanation that the minor may change a decision to have an abortion at any time before the abortion is performed or may decide to have an abortion at any time while an abortion may be legally performed;

(3) make available to the minor information on agencies available to assist the minor and agencies from which birth control information is available;

(4) discussion of the possibility of involving the minor’s parent or

parents, other adult family members or guardian in the minor's decision-making; and

(5) information regarding the provisions of K.S.A. 65-6705, *and amendments thereto*, and the minor's rights under such provisions.

(b) After the performance of an abortion on a minor, a counselor shall provide counseling to assist the minor in adjusting to any post-abortion problems that the minor may have.

(c) After the counselor provides information and counseling to a minor as required by this section, the counselor shall have the minor sign and date a statement setting forth the requirements of subsections (a) and (b) and declaring that the minor has received information and counseling in accordance with those requirements.

(d) The counselor shall also sign and date the statement and shall include the counselor's business address and business telephone number. The counselor shall keep a copy for the minor's medical record and shall give the form to the minor or, if the minor requests and if the counselor is not the attending physician, transmit the statement to the minor's attending physician. Such medical record shall be maintained as otherwise provided by law.

(e) The provision by a counselor of written materials which contain information and counseling meeting the requirements of subsections (a) and (b) and which is signed by the minor shall be presumed to be evidence of compliance with the requirements of this section.

(f) The requirements of subsection (a) shall not apply when, ~~in the best medical judgment of the attending physician based on the facts of the case, an emergency exists that threatens the health, safety or well-being of the minor as to require an abortion~~ *a medical emergency exists*. A physician who does not comply with the requirements of this section by reason of this exception shall state in the medical record of the abortion the medical indications on which the physician's judgment was based.

Sec. 5. K.S.A. 2013 Supp. 65-6705 is hereby amended to read as follows: 65-6705. (a) ~~Except in the case of a medical emergency or as otherwise provided in this section,~~ no person shall perform an abortion upon an unemancipated minor, unless the person first obtains the notarized written consent of the minor and both parents or the legal guardian of the minor.

(1) If the minor's parents are divorced or otherwise unmarried and living separate and apart, then the written consent of the parent with primary custody, care and control of such minor shall be sufficient.

(2) If the minor's parents are married and one parent is not available to the person performing the abortion in a reasonable time and manner, then the written consent of the parent who is available shall be sufficient.

(3) If the minor's pregnancy was caused by sexual intercourse with the minor's natural father, adoptive father, stepfather or legal guardian,

then the written consent of the minor's mother shall be sufficient. Notice of such circumstances shall be reported to the proper authorities as provided in K.S.A. 2013 Supp. 38-2223, and amendments thereto.

(b) After receiving counseling as provided by subsection (a) of K.S.A. 65-6704, and amendments thereto, the minor may object to the written consent requirement set forth in subsection (a). If the minor so objects, the minor may petition, on her own behalf or by an adult of her choice, the district court of any county of this state for a waiver of the written consent requirement. If the minor so desires, the counselor who counseled the minor as required by K.S.A. 65-6704, and amendments thereto, shall notify the court and the court shall ensure that the minor or the adult petitioning on the minor's behalf is given assistance in preparing and filing the petition. The minor may participate in proceedings in the court on the minor's own behalf or through the adult petitioning on the minor's behalf. The court shall provide a court-appointed counsel to represent the minor at no cost to the minor.

(c) Court proceedings under this section shall be anonymous and the court shall ensure that the minor's identity is kept confidential. The court shall order that a confidential record of the evidence in the proceeding be maintained. All persons shall be excluded from hearings under this section except the minor, her attorney and such other persons whose presence is specifically requested by the applicant or her attorney.

(d) Consent shall be waived if the court finds by clear and convincing evidence that either: (1) The minor is mature and well-informed enough to make the abortion decision on her own; or (2) the consent of the individuals specified in subsection (a) would not be in the best interest of the minor.

(e) A court that conducts proceedings under this section shall issue written and specific factual findings and legal conclusions supporting its decision as follows:

(1) Granting the minor's application for waiver of consent pursuant to this section, if the court finds that the minor is mature and well-enough informed to make the abortion decision without the consent of the individuals specified in subsection (a);

(2) granting the minor's application for waiver of consent if the court finds that the minor is immature but that consent of the individuals specified in subsection (a) would not be in the minor's best interest; or

(3) denying the application if the court finds that the minor is immature and that waiver of the consent of the individuals specified in subsection (a) would not be in the minor's best interest.

(f) The court shall give proceedings under this section such precedence over other pending matters as necessary to ensure that the court may reach a decision promptly. The court shall issue a written order which shall be issued immediately to the minor, or her attorney or other individual designated by the minor to receive the order. If the court fails to

rule within 48 hours, excluding Saturdays and Sundays, of the time of the filing of the minor's application, the application shall be deemed granted.

(g) An expedited anonymous appeal shall be available to any minor. The record on appeal shall be completed and the appeal shall be perfected within five days from the filing of the notice to appeal.

(h) The supreme court shall promulgate any rules it finds are necessary to ensure that proceedings under this act are handled in an expeditious and anonymous manner.

(i) No fees shall be required of any minor who avails herself of the procedures provided by this section.

(j) (1) ~~No consent shall be required under this section if in the best medical judgment of the attending physician based on the facts of the case, an emergency exists that threatens the health, safety or well-being of the minor as to require an abortion when a medical emergency exists.~~

(2) A physician acting pursuant to this subsection shall state in the medical record of the abortion the medical indications on which the physician's judgment was based. The medical basis for the determination shall also be reported by the physician as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445, and amendments thereto.

(k) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally and knowingly fails to conform to any requirement of this section, is guilty of a class A person misdemeanor.

(l) Except as necessary for the conduct of a proceeding pursuant to this section, it is a class B person misdemeanor for any individual or entity to willfully or knowingly: (1) Disclose the identity of a minor petitioning the court pursuant to this section or to disclose any court record relating to such proceeding; or (2) permit or encourage disclosure of such minor's identity or such record.

(m) Prior to conducting proceedings under this section, the court may require the minor to participate in an evaluation session with a psychiatrist, licensed psychologist or licensed clinical social worker. Such evaluation session shall be for the purpose of developing trustworthy and reliable expert opinion concerning the minor's sufficiency of knowledge, insight, judgment and maturity with regard to her abortion decision in order to aid the court in its decision and to make the state's resources available to the court for this purpose. Persons conducting such sessions may employ the information and materials referred to in K.S.A. 65-6708 et seq., and amendments thereto, in examining how well the minor is informed about pregnancy, fetal development, abortion risks and consequences and abortion alternatives, and should also endeavor to verify that the minor is seeking an abortion of her own free will and is not acting under intimidation, threats, abuse, undue pressure or extortion by any

other persons. The results of such evaluation shall be reported to the court by the most expeditious means, commensurate with security and confidentiality, to assure receipt by the court prior to or at the proceedings initiated pursuant to this section.

(n) In determining if a minor is mature and well-enough informed to make the abortion decision without parental consent, the court shall take into account the minor's experience level, perspective and judgment. In assessing the minor's experience level, the court shall consider, along with any other relevant factors, the minor's age, experience working outside the home, living away from home, traveling on her own, handling personal finances and making other significant decisions. In assessing the minor's perspective, the court shall consider, along with any other relevant factors, what steps the minor has taken to explore her options and the extent to which she considered and weighed the potential consequences of each option. In assessing the minor's judgment, the court shall consider, along with any other relevant factors, her conduct since learning of her pregnancy and her intellectual ability to understand her options and to make informed decisions.

(o) The judicial record of any court proceedings initiated pursuant to this section shall upon final determination by the court be compiled by the court. One copy of the judicial record shall be given to the minor or an adult chosen by the minor to bring the initial petition under this section. A second copy of the judicial record shall be sent by the court to the abortion provider who performed or will perform the abortion for inclusion in the minor's medical records and shall be maintained by the abortion provider for at least 10 years.

(p) The chief judge of each judicial district shall send annual reports to the department of health and environment disclosing in a nonidentifying manner:

(1) The number of minors seeking a bypass of the parental consent requirements through court proceedings under this section;

(2) the number of petitions granted;

(3) the reasons for granting such petitions;

(4) any subsequent actions taken to protect the minor from domestic or predator abuse;

(5) each minor's state of residence, age and disability status; and

(6) the gestational age of the unborn child if the petition is granted.

(q) (1) A custodial parent or legal guardian of the minor may pursue civil remedies against individuals, including the physician and abortion clinic staff, who violate the rights of parents, legal guardian or the minor as set forth in this section.

(2) Such relief shall include:

(A) Money damages for all injuries, psychological and physical, occasioned by the violation of this section;

(B) the cost of any subsequent medical treatment such minor might

require because of the abortion performed without parental consent or knowledge, or without a court order, in violation of this section;

(C) statutory damages equal to three times the cost of the abortion; and

(D) reasonable attorney fees.

(r) In the course of a judicial hearing to waive parental consent, if the court has reason to suspect that a minor has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse, the court shall report the matter promptly as provided in subsection (c) of K.S.A. 2013 Supp. 38-2223, and amendments thereto. In the course of reporting suspected child abuse or neglect to the appropriate state authorities, nothing in this section shall abridge or otherwise modify the anonymity or confidentiality provisions of the judicial waiver proceeding as specified in this section.

(s) Nothing in this section shall be construed to create a right to an abortion. Notwithstanding any provision of this section, a person shall not perform an abortion that is prohibited by law.

Sec. 6. K.S.A. 2013 Supp. 65-6709 is hereby amended to read as follows: 65-6709. No abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if:

(a) At least 24 hours before the abortion the physician who is to perform the abortion or the referring physician has informed the woman in writing of:

(1) The name of the physician who will perform the abortion;

(2) a description of the proposed abortion method;

(3) a description of risks related to the proposed abortion method, including risk of premature birth in future pregnancies, risk of breast cancer and risks to the woman's reproductive health and alternatives to the abortion that a reasonable patient would consider material to the decision of whether or not to undergo the abortion;

(4) the probable gestational age of the unborn child at the time the abortion is to be performed and that Kansas law requires the following: "No person shall perform or induce an abortion when the unborn child is viable unless such person is a physician and has a documented referral from another physician not financially associated with the physician performing or inducing the abortion and both physicians determine that: (1) The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible physical impairment of a major bodily function of the pregnant woman." If the child is born alive, the attending physician has the legal obligation to take all reasonable steps necessary to maintain the life and health of the child;

(5) the probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed;

(6) the contact information for counseling assistance for medically challenging pregnancies, the contact information for perinatal hospice services and a listing of websites for national perinatal assistance, including information regarding which entities provide such services free of charge;

(7) the medical risks associated with carrying an unborn child to term; and

(8) any need for anti-Rh immune globulin therapy, if she is Rh negative, the likely consequences of refusing such therapy and the cost of the therapy.

(b) At least 24 hours before the abortion, the physician who is to perform the abortion, the referring physician or a qualified person has informed the woman in writing that:

(1) Medical assistance benefits may be available for prenatal care, childbirth and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials given to her and described in K.S.A. 65-6710, and amendments thereto;

(2) the informational materials in K.S.A. 65-6710, and amendments thereto, are available in printed form and online, and describe the unborn child, list agencies which offer alternatives to abortion with a special section listing adoption services and list providers of free ultrasound services;

(3) the father of the unborn child is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion except that in the case of rape this information may be omitted;

(4) the woman is free to withhold or withdraw her consent to the abortion at any time prior to invasion of the uterus without affecting her right to future care or treatment and without the loss of any state or federally-funded benefits to which she might otherwise be entitled;

(5) the abortion will terminate the life of a whole, separate, unique, living human being; and

(6) by no later than 20 weeks from fertilization, the unborn child has the physical structures necessary to experience pain. There is evidence that by 20 weeks from fertilization unborn children seek to evade certain stimuli in a manner that in an infant or an adult would be interpreted to be a response to pain. Anesthesia is routinely administered to unborn children who are 20 weeks from fertilization or older who undergo prenatal surgery.

(c) At least 30 minutes prior to the abortion procedure, prior to physical preparation for the abortion and prior to the administration of medication for the abortion, the woman shall meet privately with the physician who is to perform the abortion and such person's staff to ensure that she has an adequate opportunity to ask questions of and obtain information from the physician concerning the abortion.

(d) At least 24 hours before the abortion, the woman is given a copy of the informational materials described in K.S.A. 65-6710, and amendments thereto. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

(e) The woman certifies in writing on a form provided by the department, prior to the abortion, that the information required to be provided under subsections (a), (b) and (d) has been provided and that she has met with the physician who is to perform the abortion on an individual basis as provided under subsection (c). All physicians who perform abortions shall report the total number of certifications received monthly to the department. The total number of certifications shall be reported by the physician as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445, and amendments thereto. The department shall make the number of certifications received available on an annual basis.

(f) Prior to the performance of the abortion, the physician who is to perform the abortion or the physician's agent receives a copy of the written certification prescribed by subsection (e) of this section.

(g) The woman is not required to pay any amount for the abortion procedure until the 24-hour waiting period has expired.

(h) A physician who will use ultrasound equipment preparatory to or in the performance of the abortion, at least 30 minutes prior to the performance of the abortion:

(1) Informs the woman that she has the right to view the ultrasound image of her unborn child, at no additional expense to her;

(2) informs the woman that she has the right to receive a physical picture of the ultrasound image, at no additional expense to her;

(3) offers the woman the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image;

(4) certifies in writing that the woman was offered the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image at least 30 minutes prior to the performance of the abortion; and

(5) obtains the woman's signed acceptance or rejection of the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image.

If the woman accepts the offer and requests to view the ultrasound image, receive a physical picture of the ultrasound image or both, her request shall be granted by the physician at no additional expense to the woman. The physician's certification shall be time-stamped at the time the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image was offered.

(i) A physician who will use heart monitor equipment preparatory to or in the performance of the abortion, at least 30 minutes prior to the performance of the abortion:

(1) Informs the woman that she has the right to listen to the heartbeat of her unborn child, at no additional expense to her;

(2) offers the woman the opportunity to listen to the heartbeat of her unborn child;

(3) certifies in writing that the woman was offered the opportunity to listen to the heartbeat of her unborn child at least 30 minutes prior to the performance of the abortion; and

(4) obtains the woman's signed acceptance or rejection of the opportunity to listen to the heartbeat of her unborn child.

If the woman accepts the offer and requests to listen to the heartbeat of her unborn child, her request shall be granted by the physician at no additional expense to the woman. The physician's certification shall be time-stamped at the time the opportunity to listen to the heartbeat of her unborn child was offered.

(j) The physician's certification required by subsections (h) and (i) together with the pregnant woman's signed acceptance or rejection of such offer shall be placed in the woman's medical file in the physician's office and kept for 10 years. However, in the case of a minor, the physician shall keep a copy of the certification and the signed acceptance or rejection in the minor's medical file for five years past the minor's majority, but in no event less than 10 years.

(k) Any private office, freestanding surgical outpatient clinic or other facility or clinic in which abortions are performed shall conspicuously post a sign in a location so as to be clearly visible to patients. The sign required pursuant to this subsection shall be printed with lettering that is legible and shall be at least three quarters of an inch boldfaced type. The sign shall include the address for the pregnancy resources website published and maintained by the department of health and environment, and the following text:

Notice: It is against the law for anyone, regardless of their relationship to you, to force you to have an abortion. By law, we cannot perform an abortion on you unless we have your freely given and voluntary consent. It is against the law to perform an abortion on you against your will. You have the right to contact any local or state law enforcement agency to receive protection from any actual or threatened physical abuse or violence. You have the right to change your mind at any time prior to the actual abortion and request that the abortion procedure cease. It is unlawful for anyone to make you have an abortion against your will, even if you are a minor. The father of your child must provide support for the child, even if he has offered to pay for an abortion. If you decide not to have an abortion, you may qualify for financial help for pregnancy, childbirth and newborn care. If you qualify, medicaid will pay or help pay the cost of doctor, clinic, hospital and other related medical expenses, including childbirth delivery services and care for your newborn baby. Many

agencies are willing to provide assistance so that you may carry your child to term, and to assist you after your child's birth.

The provisions of this subsection shall not apply to any private office, freestanding surgical outpatient clinic or other facility or clinic which performs abortions only when necessary to prevent the death of the pregnant woman.

(l) Any private office, freestanding surgical outpatient clinic or other facility or clinic in which abortions are performed that has a website shall publish an easily identifiable link on the homepage of such website that directly links to the department of health and environment's website that provides informed consent materials under the woman's-right-to-know act. Such link shall read: "The Kansas Department of Health and Environment maintains a website containing ~~objective, nonjudgmental, scientifically accurate~~ information about the development of the unborn child, as well as video of sonogram images of the unborn child at various stages of development. The Kansas Department of Health and Environment's website can be reached by clicking here."

(m) For purposes of this section:

(1) The term "human being" means an individual living member of the species of homo sapiens, including the unborn human being during the entire embryonic and fetal ages from fertilization to full gestation.

(2) The term "medically challenging pregnancy" means a pregnancy where the unborn child is diagnosed as having: (A) A severe anomaly; or (B) an illness, disease or defect which is invariably fatal.

Sec. 7. K.S.A. 2013 Supp. 65-6723 is hereby amended to read as follows: 65-6723. As used in K.S.A. 2013 Supp. 65-6722 through 65-6724, and amendments thereto:

(a) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.

(b) "Bodily function" means physical function. The term "bodily function" does not include mental or emotional functions.

(c) "Department" means the department of health and environment.

(d) "Gestational age" means the time that has elapsed since the first day of the woman's last menstrual period.

(e) "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy ~~without first determining gestational age~~ to avert her death or for which a delay

necessary to ~~determine gestational age~~ *comply with the applicable statutory requirements* will create serious risk of substantial and irreversible physical impairment of a major bodily function. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible physical impairment of a major bodily function.

(f) “Pain-capable unborn child” means an unborn child having reached the gestational age of 22 weeks or more.

(g) “Physician” means a person licensed to practice medicine and surgery in this state.

(h) “Pregnant” or “pregnancy” means that female reproductive condition of having an unborn child in the mother’s body.

Sec. 8. K.S.A. 2013 Supp. 76-3308 is hereby amended to read as follows: 76-3308. (a) The authority shall have all the powers necessary to carry out the purposes and provisions of this act, including, without limitation, the following powers to:

(1) Have the duties, privileges, immunities, rights, liabilities and disabilities of a body corporate and a political instrumentality of the state;

(2) have perpetual existence and succession;

(3) adopt, have and use a seal and to alter the same at its pleasure;

(4) sue and be sued in its own name;

(5) make and execute contracts, guarantees or any other instruments and agreements necessary or convenient for the exercise of its powers and functions including, without limitation, to make and execute contracts with hospitals or other health care businesses to operate and manage any or all of the hospital facilities or operations and to incur liabilities and secure the obligations of any entity or individual;

(6) borrow money and to issue bonds evidencing the same and pledge all or any part of the authority’s assets therefor;

(7) purchase, lease, trade, exchange or otherwise acquire, maintain, hold, improve, mortgage, sell, lease and dispose of personal property, whether tangible or intangible, and any interest therein; and to purchase, lease, trade, exchange or otherwise acquire real property or any interest therein, and to maintain, hold, improve, mortgage, lease and otherwise transfer such real property, so long as such transactions do not conflict with the mission of the authority as specified in this act;

(8) incur or assume indebtedness to, and enter into contracts with the Kansas development finance authority, which is authorized to borrow money and provide financing for the authority;

(9) develop policies and procedures generally applicable to the procurement of goods, services and construction, based upon sound business practices;

(10) contract for and to accept any gifts, grants and loans of funds,

property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply with the provisions of the terms and conditions thereof;

(11) acquire space, equipment, services, supplies and insurance necessary to carry out the purposes of this act;

(12) deposit any moneys of the authority in any banking institution within or without the state or in any depository authorized to receive such deposits, one or more persons to act as custodians of the moneys of the authority, to give surety bonds in such amounts in form and for such purposes as the board requires;

(13) procure such insurance, participate in such insurance plans or provide such self insurance or both as it deems necessary or convenient to carry out the purposes and provisions of this act; the purchase of insurance, participation in an insurance plan or creation of a self-insurance fund by the authority shall not be deemed as a waiver or relinquishment of any sovereign immunity to which the authority or its officers, directors, employees or agents are otherwise entitled;

(14) appoint, supervise and set the salary and compensation of a president of the authority who shall be appointed by and serve at the pleasure of the board;

(15) fix, revise, charge and collect rates, rentals, fees and other charges for the services or facilities furnished by or on behalf of the authority, and to establish policies and procedures regarding any such service rendered for the use, occupancy or operation of any such facility; such charges and policies and procedures not to be subject to supervision or regulation by any commission, board, bureau or agency of the state; and

(16) do any and all things necessary or convenient to carry out the authority's purposes and exercise the powers given in this act.

(b) The authority may create, own in whole or in part, or otherwise acquire or dispose of any entity organized for a purpose related to or in support of the mission of the authority.

(c) The authority may participate in joint ventures with individuals, corporations, governmental bodies or agencies, partnerships, associations, insurers or other entities to facilitate any activities or programs consistent with the public purpose and intent of this act.

(d) The authority may create a nonprofit entity or entities for the purpose of soliciting, accepting and administering grants, outright gifts and bequests, endowment gifts and bequests and gifts and bequests in trust which entity or entities shall not engage in trust business.

(e) In carrying out any activities authorized by this act, the authority may provide appropriate assistance, including the making of loans and providing time of employees, to corporations, partnerships, associations, joint ventures or other entities, whether or not such corporations, partnerships, associations, joint ventures or other entities are owned or controlled in whole or in part, directly or indirectly, by the authority.

(f) Effective with the transfer date, all moneys of the authority shall be deposited in one or more banks or trust companies in one or more special accounts. All banks and trust companies are authorized to give security for such deposits if required by the authority. The moneys in such accounts shall be paid out on a warrant or other orders of the treasurer of the authority or any such other person or persons as the authority may authorize to execute such warrants or orders.

(g) Notwithstanding any provision of law to the contrary, the authority, effective with the transfer date, may invest the authority's operating funds in any obligations or securities as authorized by the board. The board shall adopt written investment guidelines.

(h) The authority is authorized to negotiate contracts with one or more qualified parties to provide collection services. The selection of a collection services provider shall be based on responses to a request for proposals from qualified professional firms and shall be administered in accordance with policies adopted by the board.

(i) Notwithstanding any provision of law to the contrary, no abortion shall be performed, except in the event of a medical emergency, in any medical facility, hospital or clinic owned, leased or operated by the authority. The provisions of this subsection are not applicable to any member of the physician faculty of the university of Kansas school of medicine when such abortion is performed outside the scope of such member's employment on property not owned, leased or operated by the authority. As used in this subsection, "medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the woman *or for which a delay necessary to comply with the applicable statutory requirements will create serious risk of substantial and irreversible physical impairment of a major bodily function*. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death *or in substantial and irreversible physical impairment of a major bodily function*.

Sec. 9. K.S.A. 65-6704 and K.S.A. 2013 Supp. 65-4a01, 65-4a07, 65-6701, 65-6705, 65-6709, 65-6723 and 76-3308 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 17, 2014.

Published in the *Kansas Register* April 24, 2014.

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## CHAPTER 88

## SENATE BILL No. 349

AN ACT concerning professions of a technical nature; amending K.S.A. 74-7001, 74-7004, 74-7005, 74-7007, 74-7010, 74-7019, 74-7024, 74-7032, 74-7033, 74-7035, 74-7038, 74-7039, 74-7040 and 75-5802 and K.S.A. 2013 Supp. 19-216c, 19-1401a, 44-918, 72-6760d, 74-7003, 74-7009, 74-7013, 74-7021, 74-7022, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7034, 74-7036, 74-7046, 74-99b16, 75-1251, 75-37,142, 76-786 and 76-7,126 and repealing the existing sections; also repealing K.S.A. 74-7037 and 74-7042 and K.S.A. 2013 Supp. 44-919 and 74-7041.

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

Section 1. K.S.A. 2013 Supp. 44-918 is hereby amended to read as follows: 44-918. (a) The state fire marshal ~~shall~~ *may* appoint a chief inspector *and one or more deputy inspectors* who shall be a citizen of this state, or, if not available, a citizen of another state, and who shall have at the time of appointment not less than 10 years experience in the construction, installation, inspection, operation, maintenance or repair of high pressure boilers and pressure vessels as a mechanical engineer, steam operating engineer, boiler maker or boiler inspector, and who shall hold a commission issued by the national board of boiler and pressure vessel inspectors. ~~The chief inspector shall be in the unclassified civil service and shall receive such compensation as prescribed by the state fire marshal, subject to the approval of the governor.~~

(b) The chief inspector *and deputy inspectors* shall serve under the direction of the state fire marshal. The state fire marshal, chief inspector and other duly authorized representatives of the state fire marshal are hereby charged, directed and empowered:

(1) To take action necessary for the enforcement of this act and of the rules and regulations adopted hereunder;

(2) to maintain a complete record of all boilers and pressure vessels to which this act applies, which record shall include the name and address of each owner or user and the type, dimensions, maximum allowable working pressure, age and last recorded inspection of each such boiler or pressure vessel;

(3) to publish and make available copies of rules and regulations adopted hereunder to any person requesting them;

(4) to issue, or to suspend or revoke for cause, inspection certificates as provided in K.S.A. 44-924, and amendments thereto; and

(5) to cause the prosecution of all violators of the provisions of this act or of the rules and regulations adopted hereunder.

(c) (1) *A chief inspector shall:*

(A) *Have not less than five years of experience in the construction, installation, repair, operation or inspection of boilers, steam generators, super-heaters or pressure vessels; and*

(B) *hold a commission issued by the national board of boiler and*

*pressure vessel inspectors, and have the following: (i) An in-service commission; (ii) an “A” endorsement; and (iii) a “B” endorsement. If the chief inspector does not have a “B” endorsement, then the chief inspector shall have the ability to acquire a “B” endorsement within 18 months after appointment as chief inspector.*

*(2) A deputy inspector shall:*

*(A) (i) Have completed courses and training and have experience in the construction, installation, repair, operation or inspection of boilers or pressure vessels, which in the aggregate amounts to not less than two years of time spent on education, training and work experience; or*

*(ii) have not less than five years of experience in the heating, ventilation, air conditioning or plumbing fields related to the installation or repair of boilers or pressure vessels; and*

*(B) hold an in-service commission issued by the national board of boiler and pressure vessel inspectors. If the deputy inspector does not have an in-service commission, then the deputy inspector shall have the ability to acquire such commission within 12 months after appointment as deputy inspector.*

Sec. 2. K.S.A. 2013 Supp. 19-216c is hereby amended to read as follows: 19-216c. (a) “Alternative project delivery” means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor or building design-build team is selected based on a qualifications and best value approach.

(b) “Ancillary technical services” include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing air conditioning, ventilating, heating and other mechanical building systems and testing and consultant services that are determined by the agency to be required for the project.

(c) “Architectural services” means those services described by ~~subsection (e) of~~ *as the “practice of architecture,” as defined in K.S.A. 74-7003, and amendments thereto.*

(d) “Best value selection” means a selection based upon objective criteria related to price, features, functions, life-cycle costs and other factors.

(e) “Board” means the board of county commissioners or its designees and the board as defined in K.S.A. 80-2501, and amendments thereto.

(f) “Building construction” means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure. Build-

ing construction does not include highways, roads, bridges, dams, turnpikes or related structures, or stand-alone parking lots.

(g) “Building design-build” means a project for which the design and construction services are furnished under one contract.

(h) “Building design-build contract” means a contract between the board and a design-builder to furnish the architecture or engineering and related design services required for a given public facilities construction project and to furnish the labor, materials and other construction services for such public project.

(i) “Construction services” means the process of planning, acquiring, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding highways, roads, bridges, dams or related structures, or stand-alone parking lots.

(j) “Construction management at-risk services” means the services provided by a firm which has entered into a contract with the board to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may include, but are not limited to, scheduling, value analysis, system analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees and construction coordination.

(k) “Construction management at-risk contract” means the contract whereby the board acquires from a construction manager or general contractor a series of preconstruction services and an at-risk financial obligation to carry out construction under a specified cost agreement.

(l) “Construction manager or general contractor” means any individual, partnership, joint venture, corporation or other legal entity who is a member of the integrated project team with the board, design professional and other consultants that may be required for the project, who utilizes skill and knowledge of general contracting to perform preconstruction services and competitively procures and contracts with specialty contractors assuming the responsibility and the risk for construction delivery within a specified cost and schedule terms including a guaranteed maximum price.

(m) “Design-builder” means any individual, partnership, joint venture, corporation or other legal entity that furnishes the architectural or engineering services and construction services, whether by itself or through subcontracts.

(n) “Design criteria consultant” means a person, corporation, part-

nership or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to K.S.A. 74-7003, and amendments thereto, and who is employed by contract with the board to provide professional design and administrative services in connection with the preparation of the design criteria package.

(o) “Design criteria package” means performance-oriented specifications for the public construction project sufficient to permit a design-builder to prepare a response to the board’s request for proposals for a building design-build project.

(p) “Engineering services” means those services described by ~~subsection (i) of~~ *as the “practice of engineering,” as defined in K.S.A. 74-7003, and amendments thereto.*

(q) “Firm” means any individual, partnership, joint venture, corporation or other legal entity which is engaged in the business of providing construction management or general construction contracting services.

(r) “Guaranteed maximum price” means the cost of the work as defined in the contract.

(s) “Parking lot” means a designated area or parking structure for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act. A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

(t) “Preconstruction services” means a series of services that can include, but are not necessarily limited to: Design review, scheduling, cost control, value engineering, constructability evaluation and preparation and coordination of bid packages.

(u) “Project services” means architectural, engineering services, land surveying, construction management at-risk services, ancillary technical services or other construction-related services determined by the board to be required by the project.

(v) “Public construction project” means the process of designing, constructing, reconstructing, altering or renovating a public building or other structure. Public construction project does not include the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.

(w) “Stipend” means an amount paid to the unsuccessful and responsive firms to defray the cost of submission of phase II of the building design-build proposal.

Sec. 3. K.S.A. 2013 Supp. 19-1401a is hereby amended to read as follows: 19-1401a. (a) The board of county commissioners of each county may appoint a land surveyor, whose official title shall be county surveyor. The county surveyor may appoint deputy county surveyors, and each deputy may perform the duties devolved upon the county surveyor by law. The county surveyor shall be a land surveyor, licensed pursuant to article

70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto. The county surveyor may be a full-time or part-time county employee, or a contract employee, as determined appropriate by the board of county commissioners. A land surveyor may be a county surveyor in more than one county.

(b) For purposes of this section and article 14 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, the term “land surveyor” shall have the same meaning ~~ascribed thereto~~ as the term “*professional surveyor*,” as defined in K.S.A. 74-7003, and amendments thereto.

Sec. 4. K.S.A. 2013 Supp. 72-6760d is hereby amended to read as follows: 72-6760d. As used in the Kansas unified school district alternative project delivery construction procurement act, unless the context expressly provides otherwise:

(a) “Act” means the Kansas unified school district alternative project delivery building construction procurement act.

(b) “Board” means board of education of every unified school district in Kansas, as defined in K.S.A. 72-8201, and amendments thereto, with the authority to award public contracts for building design and construction.

(c) “Alternative project delivery” means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor is selected based on a qualifications and best value approach.

(d) “Ancillary technical services” include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing air conditioning, ventilating, heating and other mechanical building systems and testing and consultant services that are determined by the board to be required for the project.

(e) “Architectural services” means those services described by ~~subsection (e) of~~ as the “*practice of architecture*,” as defined in K.S.A. 74-7003, and amendments thereto.

(f) “Best value selection” means a selection based upon project cost, qualifications and other factors.

(g) “Building construction” means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure. Building construction does not include highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(h) “Construction services” means the process of planning, acquiring, building, equipping, altering, repairing, improving or demolishing any

structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding stand-alone parking lots.

(i) “Construction management at-risk services” means the services provided by a firm which has entered into a contract with the board to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may include, but are not limited to, scheduling, value analysis, system analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees and construction coordination.

(j) “Construction management at-risk contract” means the contract whereby the board acquires from a construction manager or general contractor a series of preconstruction services and an at-risk financial obligation to carry out construction under a specified cost agreement.

(k) “Construction manager or general contractor” means any individual, partnership, joint venture, corporation, or other legal entity who is a member of the integrated project team with the board, design professional and other consultants that may be required for the project, who utilizes skill and knowledge of general contracting to perform preconstruction services and competitively procures and contracts with specialty contractors assuming the responsibility and the risk for construction delivery within a specified cost and schedule terms including a guaranteed maximum price.

(l) “Cost plus guaranteed maximum price contract” means a cost-plus-a-fee contract with a guaranteed maximum price. This includes the sum of the construction manager’s fee, the construction manager’s contingency, the construction manager’s general conditions, all the subcontracts, plus an estimate for unbid subcontracts. The construction manager agrees to pay for costs that exceed the guaranteed maximum price and are not a result of changes in the contract documents.

(m) “Engineering services” means those services described by ~~subsection (i) of as the~~ *“practice of engineering,” as defined in K.S.A. 74-7003, and amendments thereto.*

(n) “Firm” means any individual, partnership, joint venture, corporation or other legal entity which is engaged in the business of providing construction management or general construction contracting services.

(o) “Guaranteed maximum price” means the cost of the work as defined in the contract.

(p) “Selection recommendation committee” means school board or a committee appointed by the school board.

(q) “Parking lot” means a designated area constructed on the ground surface for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act. A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

(r) “Preconstruction services” means a series of services that can include, but are not necessarily limited to: Design review, scheduling, cost control, value engineering, constructability evaluation and preparation and coordination of bid packages.

(s) “Project services” means architectural, engineering services, land surveying, construction management at-risk services, ancillary technical services or other construction-related services determined by the board to be required by the project.

(t) “Public construction project” means the process of designing, constructing, reconstructing, altering or renovating a unified school district building or other structure. Public construction project does not include the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.

Sec. 5. K.S.A. 74-7001 is hereby amended to read as follows: 74-7001. (a) Except as otherwise provided in ~~this act~~ K.S.A. 74-7001 *et seq.*, and *amendments thereto*, it shall be unlawful for any person to practice or to offer to practice in the state of Kansas, any profession included within the term technical professions, as such term is defined in ~~the provisions of this act~~ K.S.A. 74-7003, and *amendments thereto*, unless such person has been duly licensed to practice such profession under ~~this act~~ K.S.A. 74-7001 *et seq.*, and *amendments thereto*, or holds a certificate of authorization issued under K.S.A. 74-7036, and *amendments thereto*.

(b) Any person practicing any technical profession in this state, or calling or representing such person as a licensed practitioner of such technical profession, or using the title of a licensed practitioner of such technical profession shall be required to submit evidence that such person is ~~qualified to practice such technical profession and is~~ duly licensed under ~~this act~~ K.S.A. 74-7001 *et seq.*, and *amendments thereto*, or holds a certificate of authorization issued under K.S.A. 74-7036, and *amendments thereto*.

Sec. 6. K.S.A. 2013 Supp. 74-7003 is hereby amended to read as follows: 74-7003. As used in K.S.A. 74-7001 *et seq.*, and *amendments thereto*:

(a) ~~“Technical professions” includes the professions of engineering, land surveying, architecture, landscape architecture and geology as the practice of such professions are defined in K.S.A. 74-7001 *et seq.*, and *amendments thereto*.~~ “Agricultural building” means any structure designed and constructed to house hay, grain, poultry, livestock or other horticultural products, or for farm storage of farming implements. Such

*structure shall not be a place for human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a building or structure for use by the public.*

(b) “Architect” means a person who is qualified to engage in the practice of architecture and who is licensed by the board to practice architecture as provided in K.S.A. 74-7001 *et seq.*, and amendments thereto.

(c) (1) “Architecture” or “practice of architecture” means providing, offering to provide or holding oneself out as able to provide professional architectural services or performing creative work which requires architectural education, training and experience as may be required in connection with the design and construction, restoration, enlargement or alteration of non-exempt public or private buildings intended for human habitation, occupancy or use, and the spaces within and the site surrounding such buildings.

(2) Professional architectural services include the following: Common technical services, as defined in subsection (g); pre-design and schematic design; programming; planning; preparing or providing designs, drawings, specifications and other technical submissions; the design of items relating to building code requirements, as such items pertain to architecture; and the preparation of any architectural design features that are required on legal documents and those other professional architectural services as may be necessary for the rendering of services which have the purpose of protecting the health, safety, property and welfare of the public.

(3) The term “architecture” or “practice of architecture” shall not include those services specifically identified in the definition of “landscape architecture,” “professional engineering,” “professional geology” and “professional surveying” except for those services which are included in the term “common technical services,” as defined in subsection (g).

~~(b)~~(d) “Board” means the state board of technical professions.

(e) “Building” means any permanent structure which is enclosed or partially enclosed that provides shelter for human habitation.

(f) “Business entity” means a general corporation, professional corporation, limited liability company, limited liability partnership, corporate partnership or other legal entity created by law.

(g) “Common technical services” means those services which may be offered or performed by any licensee, are performed within the licensee’s defined scope of practice and are further described as follows:

(1) Representation of clients in connection with contracts entered into between clients and others;

(2) coordination of elements of technical submissions prepared by the licensee’s consultants;

(3) administration of contracts for construction;

(4) observation of construction for general conformance with require-

ments of approved construction documents or technical submissions prepared by a licensee;

- (5) performing acts of consultation and technical investigation;
- (6) providing expert technical testimony or testimony evaluation;
- (7) performing technical evaluations and research;
- (8) teaching in a college or university offering an accredited technical professional curriculum recognized by the board; and
- (9) providing responsible supervision of these services, insofar as such services involve safeguarding the health, safety, property and welfare of the public.

(h) “Construction administration” means the provision of technical professional services during construction by licensees, or persons under the licensee’s responsible supervision, which act to confirm substantial compliance with the requirements and provisions of applicable technical documents prepared by the licensee or under the licensee’s responsible supervision. Such technical professional services include, but are not limited to: Assisting with bidding or negotiation processes; reviewing and acting upon shop drawings and other submittals; providing clarification or interpretation of the licensee’s technical documents; evaluating general progress of construction; observing or evaluating completed construction; and assisting the client in matters related to the licensee’s technical professional expertise. Construction administration services do not include management of, or responsibility for, the contractor’s construction activities, means or methods.

(i) “Government client” means any state, county or municipal governmental entity including, but not limited to, any department, agency, authority, planning district, board, commission, office or institution thereof, and any school district, college, university and any individual acting under authority to represent any such governmental entity.

(j) “Landscape architect” means a person who is qualified to engage in the practice of landscape architecture and who is licensed by the board to practice landscape architecture as provided in K.S.A. 74-7001 et seq., and amendments thereto.

(k) (1) “Landscape architecture” or “practice of landscape architecture” means performing professional landscape architectural services including the following: Common technical services, as defined in subsection (g); consultation, planning, designing or responsible supervision in connection with the development of land areas for preservation and enhancement; the development of sustainable designs and technology; preparation, review and analysis of master plans for land use and development; production of overall site development and land enhancement plans, grading and drainage plans, irrigation plans, planting plans and construction details; specifications, cost analysis and reports for land development; and the designing of land forms and non-habitable structures for aesthetic and functional purposes, such as pools, walls and structures for outdoor living

*spaces, for public and private use. The practice of landscape architecture also encompasses the determination of proper land use as it pertains to: Natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; soil conservation; erosion control; and the development of outdoor space in accordance with ideals of human use and enjoyment.*

(2) *The term “landscape architecture” or “practice of landscape architecture” shall not include those services specifically identified in the definition of “architecture,” “professional engineering,” “professional geology” and “professional surveying” except for those services which are included in the term “common technical services,” as defined in subsection (g).*

~~(e)-(l)~~ “License” means a license to practice the technical professions granted under K.S.A. 74-7001 et seq., and amendments thereto.

~~(d)~~ “Architect” means a person whose practice consists of:

~~(1)~~ Rendering services or performing creative work which requires architectural education, training and experience, including services and work such as consultation, evaluation, planning, providing preliminary studies and designs, overall interior and exterior building design, the preparation of drawings, specifications and related documents, all in connection with the construction or erection of any private or public building, building project or integral part or parts of buildings or of any additions or alterations thereto, or other services and instruments of services related to architecture;

~~(2)~~ representation in connection with contracts entered into between clients and others; and

~~(3)~~ observing the construction, alteration and erection of buildings.

~~(c)~~ “Practice of architecture” means the rendering of or offering to render certain services, as described in subsection (d), in connection with the design and construction or alterations and additions of a building or buildings; the design and construction of items relating to building code requirements, as they pertain to architecture, and other building related features affecting the public’s health, safety and welfare; the preparation and certification of any architectural design features that are required on plats; and the teaching of architecture by a licensed architect in a college or university offering an approved architecture curriculum of four years or more.

~~(f)~~ “Landscape architect” means a person who is professionally qualified as provided in K.S.A. 74-7001 et seq., and amendments thereto, to engage in the practice of landscape architecture, who practices landscape architecture and who is licensed by the board.

~~(g)~~ “Practice of landscape architecture” means the performing of professional services such as consultation, planning, designing or responsible supervision in connection with the development of land areas for pres-

ervation and enhancement; the designing of land forms and nonhabitable structures for aesthetic and functional purposes such as pools, walls and structures for outdoor living spaces for public and private use; the preparation and certification of any landscape architectural design features that are required on plats; and the teaching of landscape architecture by a licensed landscape architect in a college or university offering an approved landscape architecture curriculum of four years or more. It encompasses the determination of proper land use as it pertains to: Natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; soil conservation erosion control, drainage and grading; and the development of outdoor space in accordance with ideals of human use and enjoyment.

(m) “Person” means a natural person or business entity.

(n) “Principal” means person who serves in a business entity as an officer, member of a board of directors, member of a limited liability company or partner.

~~(h)~~(o) “Professional engineer” means a person who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, who is qualified as provided in *engage in the practice of engineering and who is licensed by the board to practice engineering as provided in K.S.A. 74-7001 et seq.*, and amendments thereto; to engage in the practice of engineering and who is licensed by the board.

(i)(p) (1) “Professional engineering” or “practice of engineering” means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, the teaching of engineering by a licensed professional engineer in a college or university offering an approved engineering curriculum of four years or more, engineering surveys and studies, the observation of construction for the purpose of assuring compliance with drawings and specifications, representation in connection with contracts entered into between clients and others and the preparation and certification of any engineering design features that are required on plats, any of which embraces such service or work, either public or private, for any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property. As used in this subsection, “engineering surveys” includes all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered pro-

jects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements and the dependent or independent surveys or resurveys of the public land survey system. providing, offering to provide, or holding oneself out as able to provide professional engineering services, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences, including the following: Common technical services, as defined in subsection (g); consulting, investigating, evaluating, planning and designing of engineering works and systems; producing engineering surveys and studies; and preparing any engineering design features which embrace such service or work, either public or private, for any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding the health, safety, property or welfare of the public.

(2) As used in this subsection, the term “engineering surveys” includes all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements and the dependent or independent surveys or resurveys of the public land survey system.

(3) The term “professional engineering” or “practice of professional engineering” shall not include those services specifically identified in the definition of “architecture,” “landscape architecture,” “professional geology” and “professional surveying” except for those services which are included in the term “common technical services,” as defined in subsection (g).

(q) “Professional geologist” means a person who is qualified to engage in the practice of geology and who is licensed by the board to practice geology as provided in K.S.A. 74-7001 *et seq.*, and amendments thereto.

(r) (1) “Professional geology” or “practice of professional geology” means the performing of professional geology services including the following: Common technical services, as defined in subsection (g); planning or mapping, providing observation, or the responsible supervision thereof, in connection with the treatment of the earth and its origin and history, in general; the investigation of the earth’s constituent rocks, minerals, solids, fluids, including surface and underground waters, gases and other materials; and the study of the natural agents, forces and processes which cause changes in the earth.

(2) The term “professional geology” or “practice of professional geology” shall not include those services specifically identified in the definition of “architecture,” “landscape architecture,” “professional engineering” and “professional surveying” except for those services which are

included in the term “common technical services,” as defined in subsection (g).

~~(j)(s)~~ “~~Land Professional~~ surveyor” means any person who is engaged in the practice of ~~land~~ surveying and who is licensed by the board to practice surveying as provided in K.S.A. 74-7001 et seq., and amendments thereto, ~~and who is licensed by the board.~~

~~(k)(t)~~ (1) “Professional surveying” or “practice of ~~land~~ professional surveying” includes:

~~(1) The performance of any professional service, the adequate performance of which involves the application of special knowledge and experience in the principles of mathematics, the related physical and applied sciences, the relevant requirements of law and the methods of surveying measurements in measuring and locating of lines, angles, elevation of natural and man-made features in the air, on the surface of the earth, within underground workings and on the bed of bodies of water for the purpose of determining areas, volumes and monumentation of property boundaries;~~

~~(2) the planning, mapping and preparation of plats of land and subdivisions thereof, including the topography, rights-of-way, easements and any other boundaries that affect rights to or interests in land, but excluding features requiring engineering or architectural design;~~

~~(3) the preparation of the original descriptions of real property for the conveyance of or recording thereof and the preparation of maps, plats and field note records that represent these surveys;~~

~~(4) the reestablishing of missing government section corners in accordance with government surveys;~~

~~(5) the teaching of land surveying by a licensed land surveyor in a college or university offering an approved land surveying curriculum of four years or more; and~~

~~(6) the locating or laying out of alignments, positions or elevations where such work is part of the construction of engineering or architectural works. means providing, or offering to provide, professional surveying services including the following: Common technical services, as defined in subsection (g); using such sciences as mathematics, geodesy and photogrammetry; and involving the making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvements on the earth, the space above, on or below the earth and providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional surveying services also include planning, mapping, assembling and interpreting gathered measurements and information related to any one or more of the following:~~

~~(A) Determining by measurement the configuration or contour of the earth’s surface or the position of fixed objects thereon;~~

(B) *determining by performing geodetic surveys the size and shape of the earth or the position of any point on the earth;*

(C) *locating, relocating, establishing, re-establishing or retracing property lines or boundaries of any tract of land, road, right-of-way or easement;*

(D) *preparing the original descriptions of real property for the conveyance of or recording thereof and the preparation of graphics, data, maps, plans, reports, land subdivision plats, descriptions and projects that represent these surveys;*

(E) *determining, by the use of principles of surveying, the position for any survey monument, whether boundary or non-boundary, or reference point and establishing or replacing any such monument or reference point;*

(F) *making any survey for the division, subdivision or consolidation of any tract of land;*

(G) *locating or laying out alignments, positions or elevations where such work is part of the construction of engineering or architectural works; and*

(H) *creating, preparing or modifying electronic, computerized or other data relative to performance of the activities set forth in subparagraphs (A) through (G).*

(2) *The term “professional surveying” or “practice of professional surveying” shall not include those services specifically identified in the definition of “architecture,” “landscape architecture,” “professional engineering” and “professional geology” except for those services which are included in the term “common technical services,” as defined in subsection (g).*

~~(l) “Person” means a natural person or business entity.~~

~~(m) “Plat” means a diagram drawn to scale showing all essential data pertaining to the boundaries and subdivisions of a tract of land, as determined by survey or protraction. A plat should show all data required for a complete and accurate description of the land which it delineates, including the bearings (or azimuths) and lengths of the boundaries of each subdivision.~~

~~(n) “Geologist” means a person who is qualified to engage in the practice of geology by reason of knowledge of geology, mathematics and the supporting physical and life sciences, acquired by education and practical experience, who is qualified as provided in K.S.A. 74-7001 et seq., and amendments thereto, to engage in the practice of geology and who is licensed by the board.~~

~~(o) “Practice of geology” means:~~

~~(1) The performing of professional services such as consultation, investigation, evaluation, planning or mapping, or inspection, or the responsible supervision thereof, in connection with the treatment of the earth and its origin and history, in general; the investigation of the earth’s~~

~~constituent rocks, minerals, solids, fluids including surface and underground waters, gases and other materials, and the study of the natural agents, forces and processes which cause changes in the earth;~~

~~(2) the teaching of geology by a licensed professional geologist in a college or university offering an approved geology curriculum of four years or more by a person who meets the qualifications for education and experience prescribed by K.S.A. 74-7041, and amendments thereto; or~~

~~(3) representation in connection with contracts entered into between clients and others and the preparation and certification of geological information in reports and on maps insofar as it involves safeguarding life, health or property.~~

~~(p) "Business entity" means a general corporation, professional corporation, limited liability company, limited liability partnership, corporate partnership or other legal entity created by law.~~

~~(q) "Principal" means a person who serves in a business entity as an officer, member of a board of directors, member of a limited liability company or partner.~~

~~(u) "Responsible charge" means the application of personal supervision and professional judgment, and the incorporation of detailed knowledge with respect to the content of a technical submission by a licensee when applying the normal standard of care for the work that such licensee is licensed to perform.~~

~~(v) "Standard of care" means the duty to exercise the degree of learning and skill ordinarily possessed by a reputable licensee practicing in Kansas in the same or similar locality and under similar circumstances.~~

~~(w) "Technical professions" includes the professions of architecture, landscape architecture, professional engineering, professional geology and professional surveying as the practice of such professions are defined in K.S.A. 74-7001 et seq., and amendments thereto.~~

Sec. 7. K.S.A. 74-7004 is hereby amended to read as follows: 74-7004. For the purpose of administering the provisions of this act and in order to establish and maintain a high standard of integrity, skills and practice in the technical professions and to safeguard the ~~life~~, health, *safety*, property and welfare of the public, the governor shall appoint a state board of technical professions consisting of 13 members. At least 30 days prior to the expiration of any term other than that of ~~the~~ *a* member appointed from the general public, professional societies and associations which are respectively representative of each branch of the technical professions may submit to the governor a list of three or more names of persons of recognized ability who have the qualifications prescribed for board members for appointment from that branch of the technical professions. The governor shall consider the list of persons in making the appointment to the board. In case of a vacancy in the membership of the board, other than that of ~~the~~ *a* member appointed from the general public, for any

reason other than the expiration of a term of office, the governor shall appoint a qualified successor to fill the unexpired term. In making the appointment the governor shall give consideration to the list of persons last submitted.

Sec. 8. K.S.A. 74-7005 is hereby amended to read as follows: 74-7005.

(a) Membership of the board shall be as follows:

(1) Four members shall have been engaged in the practice of engineering for at least eight years, *which practice shall include responsible charge of engineering work*, and shall be *Kansas licensed professional engineers*. At least one of such members shall be engaged in private practice as an engineer. At least one of such members ~~shall~~*may* also be licensed as a ~~land~~*Kansas professional* surveyor, as well as a *Kansas licensed professional engineer*.

(2) Two members shall have been engaged in the practice of ~~land~~ surveying for at least eight years, *which practice shall include responsible charge of surveying work*, and shall be *Kansas licensed land professional* surveyors.

(3) Three members shall ~~have been engaged in the practice of architecture for at least eight years, which practice shall include responsible charge of architectural work, and shall be Kansas licensed architects of recognized standing and shall have been engaged in the practice of the profession of architecture for at least eight years, which practice shall include responsible charge of architectural work as principal.~~

(4) One member shall ~~have been engaged in the practice of landscape architecture for at least eight years, which practice shall include responsible charge of landscape architectural work, and shall be a Kansas licensed landscape architect and shall have been engaged in the practice of landscape architecture for at least eight years, which practice shall include responsible charge of landscape architectural work as principal.~~

(5) One member shall ~~be engaged in the practice of geology, shall have been engaged in the practice of geology for at least eight years and, on and after July 1, 2000, which practice shall include responsible charge of geology work, and shall be a Kansas licensed professional geologist.~~

(6) Two members shall be from the general public of this state.

(b) Each member of the board shall be a citizen of the United States and a resident of this state.

(c) ~~The~~*Any* amendments to this section shall not be applicable to any member of the board who was appointed to the board and qualified for such appointment under this section prior to the effective date of ~~this act~~*such enactment*.

Sec. 9. K.S.A. 74-7007 is hereby amended to read as follows: 74-7007. The board shall organize annually at its first meeting subsequent to July 1, and shall select a chairperson, vice-chairperson, and secretary from its own membership. The secretary shall be the custodian of the common

seal, the books and records of the board, and shall ~~keep minutes~~ *be responsible for the recordation, publication and archiving* of all board proceedings. The chairperson and secretary shall have the power to administer oaths pertaining to the business of the board. The board shall have a common seal and shall formulate rules to govern its actions. Each member of the board shall take and subscribe the oaths prescribed by law for state officers. The oaths provided for herein shall be filed in the office of the secretary of state. The board shall hold an annual meeting and such additional meetings as the board may designate. Seven members of the board shall constitute a quorum for the transaction of business.

Sec. 10. K.S.A. 2013 Supp. 74-7009 is hereby amended to read as follows: 74-7009. (a) The following nonrefundable fees shall be collected by the board:

(1) For an original license, issued upon the basis of an examination given by the board, an application fee in the sum of not more than \$200 plus an amount, ~~to be determined by the board,~~ equal to the cost of any examination ~~required~~ *directly administered* by the board ~~in each~~ *for any* branch of the technical professions;

(2) for a license by reciprocity under K.S.A. 74-7024, and amendments thereto, an application fee of not more than \$500;

(3) for a certificate of authorization for a business entity, the sum of not more than \$300;

(4) for the biennial renewal of ~~a~~ *an active* license, the sum of not more than \$200;

(5) for the biennial renewal of a certificate of authorization for a business entity, the sum of not more than \$300; ~~and~~

(6) ~~for the renewal of a certificate of authorization pursuant to subsection (c) of K.S.A. 74-7036, and amendments thereto, 1/2 of the renewal fee required by paragraph (5) of this subsection~~ *for the untimely renewal of a license or certificate of authorization pursuant to K.S.A. 74-7025, and amendments thereto, a late fee of not more than \$200; and*

(7) *for the return of an inactive license to active practice, or for the reinstatement of a cancelled license, the sum of not more than \$200.*

(b) On or before November 15, of each year, the board shall determine the amount necessary to administer the provisions of K.S.A. 74-7001 et seq., and amendments thereto, for the ensuing calendar year and shall fix the fees for such year at the sum deemed necessary for such purposes.

(c) The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the technical pro-

fessions fee fund, which fund is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board or by a person or persons designated by the chairperson.

Sec. 11. K.S.A. 74-7010 is hereby amended to read as follows: 74-7010. A roster showing the names and places of business of all persons licensed under ~~this act~~ K.S.A. 74-7001 *et seq.*, and amendments thereto, or issued a certificate of authorization under K.S.A. 74-7036, and amendments thereto, shall be maintained by the executive director. The roster shall also specify the branch of the technical professions in which each such person is licensed or authorized to practice. Copies of the roster may be placed, at the discretion of the board, on file with the secretary of state and with the clerk of each county in this state and shall be furnished to such other persons as determined by the board. Copies shall be furnished to members of the public upon request. The board may charge and collect a fee for copies furnished to members of the public in an amount to be fixed by the board and approved by the director of accounts and reports under K.S.A. 45-210, and amendments thereto, in order to recover the actual costs incurred. All fees collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the technical professions fee fund *shall be provided in accordance with the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.*

Sec. 12. K.S.A. 2013 Supp. 74-7013 is hereby amended to read as follows: 74-7013. (a) The board may adopt all rules and regulations, including rules of professional conduct, which are necessary for performance of its powers, duties and functions in the administration of the provisions of K.S.A. 74-7001 *et seq.*, and amendments thereto.

(b) The board, through rules and regulations, may require continuing education as a condition for license renewal or reinstatement and may exempt persons from such continuing education requirements.

(c) *The board may adopt rules and regulations concerning cancelled, inactive and emeritus licensure status.*

(d) *The board shall adopt rules and regulations prescribing minimum standards for boundary surveys, mortgage title inspection, American land title association surveys and such other surveys as necessary to control the quality of surveying in the state of Kansas.*

Sec. 13. K.S.A. 74-7019 is hereby amended to read as follows: 74-7019. Minimum qualifications of applicants seeking licensure as architects are the following:

(a) Graduation from a college or university program that is adequate

in its preparation of students for the practice of architecture, *as determined by the board in accordance with applicable rules and regulations*; ~~and~~

(b) proof of architectural experience of a character satisfactory to the board, as defined by rules and regulations of the board; and

(c) the satisfactory passage of an examination utilized by the board.

Sec. 14. K.S.A. 2013 Supp. 74-7021 is hereby amended to read as follows: 74-7021. (a) Minimum qualifications of applicants seeking licensure as professional engineers are the following:

(1) Graduation from a college or university program that is adequate in its preparation of students for the practice of engineering, *as determined by the board in accordance with applicable rules and regulations*; ~~and~~

(2) the satisfactory passage of ~~such written~~ *an* examination in the fundamentals of engineering as utilized by the board; ~~and~~

(3) proof of four years of engineering experience of a character satisfactory to the board, as defined by rules and regulations of the board; and

(4) the satisfactory passage of ~~such~~ *an* examination in professional practice as utilized by the board.

(b) The board may issue an intern engineer certificate to a person who meets the education and examination qualifications prescribed by the board.

Sec. 15. K.S.A. 2013 Supp. 74-7022 is hereby amended to read as follows: 74-7022. (a) Minimum qualifications of applicants seeking licensure as ~~land~~ *professional* surveyors are the following:

(1) Proof of ~~land~~ surveying experience and education in accordance with rules and regulations of the board; and

(2) the satisfactory passage of examinations utilized by the board.

(b) The board may issue an intern ~~land~~ surveyor certificate to a person who meets the education, experience and examination qualifications prescribed by the board.

New Sec. 16. (a) Minimum qualifications of applicants seeking licensure as professional geologists are the following:

(1) Graduation from a course of study in geology, or from a program which is of four or more years' duration and which includes at least 30 semester or 45 quarter hours of credit with a major in geology or a geology specialty, that is adequate in its preparation of students for the practice of geology;

(2) proof of at least four years of experience in geology of a character satisfactory to the board, as defined by rules and regulations of the board; and

(3) the satisfactory passage of such examinations in the fundamentals of geology and in geologic practice as utilized by the board.

(b) The board may issue an intern geologist certificate to a person who meets the education and examination qualifications prescribed by the board.

Sec. 17. K.S.A. 2013 Supp. 74-7023 is hereby amended to read as follows: 74-7023. (a) All examinations required by K.S.A. 74-7001 et seq., and amendments thereto, shall be held at such time and place as the board determines. The scope of the examinations, methods of procedure and eligibility to take examinations, including reexaminations, shall be prescribed by the board.

(b) The board, after receiving satisfactory evidence of the qualifications of an applicant and after satisfactory examination of the applicant, shall issue a license authorizing the applicant to practice the technical profession for which the applicant is qualified and to use the title appropriate to such technical profession.

(c) Each license shall show the full name of the licensee, shall have a serial number and shall be signed by the chairperson and the secretary of the board under seal of the board. The issuance of a license by the board shall be prima facie evidence that the person named on the license is legally licensed and is entitled to all the rights and privileges of a licensed practitioner of the technical profession for which the licensee is licensed while the license remains unrevoked and unexpired.

(d) Each licensee shall ~~purchase~~ *obtain* a seal of a distinctive design authorized by the board, bearing the licensee's name and number and a uniform inscription formulated by the board. Documents, ~~reports, legal descriptions, records and papers~~ signed by the licensee in the licensee's professional capacity shall be stamped with the seal during the duration of the license, but it shall be unlawful for anyone to stamp any document with the seal after the license has expired or has been revoked, unless the license has been renewed or reissued. No person shall tamper with or revise the seal without express written approval by the board.

~~(e) Any person licensed hereunder may stamp any documents submitted to such licensee by any practitioner of a technical profession licensed in another state upon assuming full responsibility for furnishing complete and adequate observation of the work covered by the documents to which the licensee has affixed the seal.~~

Sec. 18. K.S.A. 74-7024 is hereby amended to read as follows: 74-7024. Any person who holds a current license ~~or certificate of qualification or registration~~ to practice any branch of the technical professions issued by the proper authority in any other state or political subdivision of the United States ~~or in any other country~~ may be exempted from examination for licensure in this state if the requirements under which such license ~~or certificate~~ was issued are of a standard accepted by the board and if the person's record fully meets the requirements of this state in all respects other than examination. *Upon determination that the person meets*

*the requirements of this section and all other requirements for licensure under K.S.A. 74-7001 et seq., and amendments thereto, the board may issue, upon application therefor and receipt of payment of the application fee prescribed under K.S.A. 74-7009, and amendments thereto, a license to practice the appropriate technical profession if the proper authority of the state, political subdivision or country from which the applicant holds a license or certificate agrees to accept on an equal basis persons who hold licenses issued by the authority of this state.*

Sec. 19. K.S.A. 2013 Supp. 74-7025 is hereby amended to read as follows: 74-7025. (a) At least 30 days prior to the date of expiration of a license or certificate of authorization, the executive director shall notify every person licensed under K.S.A. 74-7001 et seq., and amendments thereto, or business entity issued a certificate of authorization under K.S.A. 74-7036, and amendments thereto, of the date of the expiration of the license or certificate of authorization and the amount of the fee that is required for its renewal for two years. The licensee shall notify the board in writing of any change of address within 30 days after the date of such change. ~~Renewal may be effected without penalty any time during a period of 60 days following the date of the expiration of the license or certificate of authorization by the payment of a renewal fee established by the board pursuant to the provisions of K.S.A. 74-7009, and amendments thereto.~~ *A licensee shall not practice any technical profession after the expiration date until the license or certificate of authorization has been renewed or reinstated. Any license or certificate of authorization not renewed by the expiration date may be renewed within 60 days after such expiration date by payment of the renewal fee plus a late fee as set forth in K.S.A. 74-7009, and amendments thereto. Any license or certificate of authorization not renewed within 60 days after the expiration date shall be cancelled.*

(b) As a condition for obtaining license renewal, the board may require proof of compliance with continuing education requirements established by rules and regulations.

(c) ~~The failure on the part of any licensee or holder of a certificate of authorization to effect renewal or reinstatement of a license or certificate of authorization as required above shall result in the cancellation of the license or certificate of authorization by the board.~~

(d) ~~Any person whose license or certificate of authorization has been cancelled pursuant to subsection (c) may have the license or certificate of authorization reinstated by the board for good cause shown and upon payment of a penalty determined by the board in an amount of not more than \$100 by filing an application for such license or certificate of authorization and such other documents as required by the board, and payment of the reinstatement fee as set forth in K.S.A. 74-7009, and amendments thereto.~~

(d) *Any licensee who voluntarily decides to no longer practice a technical profession shall have such licensee's status changed from active to inactive, provided, such licensee meets the requirements for use of the inactive licensure status established in the rules and regulations adopted by the board. A person whose license is inactive may return to active practice of a technical profession by applying for a return to active practice, paying the appropriate fee as set forth in K.S.A. 74-7009, and amendments thereto, and complying with all applicable rules and regulations adopted by the board.*

(e) *Any licensee who voluntarily decides to no longer practice a technical profession and who is at least 60 years of age shall have such licensee's status changed from active to emeritus, provided, such licensee meets the requirements for use of the emeritus title established in the rules and regulations adopted by the board.*

~~(e)-(f)~~ A new license or certificate of authorization, to replace any lost, destroyed or mutilated license, may be issued, subject to rules and regulations of the board, and a charge of \$20 shall be made for such issuance.

Sec. 20. K.S.A. 2013 Supp. 74-7026 is hereby amended to read as follows: 74-7026. (a) The board shall have the power to limit, condition, reprimand or otherwise discipline, suspend or revoke the license of any person who has engaged in any of the following conduct:

(1) The practice of any fraud or deceit in obtaining a license or certificate of authorization issued under K.S.A. 74-7036, and amendments thereto;

(2) any gross negligence, incompetency, misconduct or wanton disregard for the rights of others in the practice of any technical profession;

(3) a conviction of a felony as set forth in the criminal statutes of the state of Kansas, of any other state or of the United States;

(4) violation of any rules of professional conduct adopted and promulgated by the board or violation of rules and regulations adopted by the board for the purpose of carrying out the provisions of K.S.A. 74-7001 et seq., and amendments thereto; or

(5) affixing or permitting to be affixed such licensee's seal or name to any documents, ~~reports, records or papers~~ which were not prepared by such licensee or prepared under the ~~direct supervision and control of such licensee, except as provided in K.S.A. 74-7023, and amendments thereto~~ *responsible charge of such licensee.*

(b) The board shall have the power to limit, condition, reprimand or otherwise discipline, suspend or revoke the certificate of authorization of any business entity which has engaged in any conduct which would authorize the board to limit, condition, reprimand or otherwise discipline, suspend or revoke the license of a person under this section.

(c) The board, for reasons it may deem sufficient, may reissue a li-

cense or certificate of authorization that has been revoked and may remove the suspension of the license or certificate of authorization ~~providing~~ *provided*, seven or more members of the board vote in favor of such reissuance or removal of suspension. A new license or certificate of authorization, to replace any revoked or suspended license or certificate of authorization, may be issued, subject to rules and regulations of the board, and a charge of \$100 shall be made for the issuance of such license or \$150 for the issuance of a certificate of authorization.

(d) Any action of the board pursuant to this section shall be subject to the provisions of the Kansas administrative procedure act.

Sec. 21. K.S.A. 2013 Supp. 74-7029 is hereby amended to read as follows: 74-7029. (a) It shall be a class A misdemeanor for any person to:

(1) Practice or offer to practice or hold one's self out as entitled to practice any technical profession unless the person is licensed as provided in K.S.A. 74-7001 et seq., and amendments thereto, or holds a certificate of authorization issued under K.S.A. 74-7036, and amendments thereto;

(2) present or attempt to use, as such person's own, the license, certificate of authorization or seal of another;

(3) falsely impersonate any other practitioner of like or different name;

(4) give false or forged evidence to the board, or any member thereof, in obtaining a license or certificate of authorization;

(5) use or attempt to use a license or certificate of authorization that has expired or been suspended or revoked;

(6) falsely advertise as a licensed practitioner or as the holder of a certificate of authorization;

(7) use in connection with such person's name, or otherwise assume, or advertise any title or description intended to convey the impression that such person is a licensed practitioner or holds a certificate of authorization; or

(8) otherwise violate any of the provisions of K.S.A. 74-7001 et seq., and amendments thereto, or any rule and regulation promulgated by the board.

(b) For the purposes of subsection (a)(1), a person shall be construed to practice or offer to practice or hold one's self out as entitled to practice a technical profession if such person:

(1) Practices any branch of the technical professions;

(2) by verbal claim, sign, advertisement, letterhead, card or in any other way represents the person to be an architect, landscape architect, professional engineer, *professional geologist* or ~~land~~ *professional* surveyor;

(3) through the use of some other title implies that such person is an architect, landscape architect, professional engineer, *professional geolo-*

gist or ~~land~~ *professional* surveyor, or that such person is licensed to practice a technical profession; or

(4) holds one's self out as able to perform, or does perform, any service or work or any other service designated by the practitioner which is recognized as within the scope of the practice of a technical profession.

(c) The attorney general of the state or the district or county attorney of any county, at the request of the board, shall render such legal assistance as may be necessary in carrying out the provisions of K.S.A. 74-7001 et seq., and amendments thereto. Upon the request of the board, the attorney general or district or county attorney of the proper county shall institute in the name of the state or board the proper proceedings against any person regarding whom a complaint has been made charging such person with the violation of any of the provisions of K.S.A. 74-7001 et seq., and amendments thereto. The attorney general, and such district or county attorney, at the request of the attorney general or of the board, shall appear and prosecute any and all such actions.

Sec. 22. K.S.A. 2013 Supp. 74-7031 is hereby amended to read as follows: 74-7031. The provisions of K.S.A. 74-7001 et seq., and amendments thereto, requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036, and amendments thereto, to engage in the practice of architecture shall not be construed to prevent or to affect:

(a) The practice of any person engaging in the publication of books or pamphlets illustrating architectural designs.

(b) Persons preparing plans, drawings or specifications for ~~one and two family dwellings~~ *buildings housing no more than two dwelling units in one contiguous structure* or for agricultural buildings.

(c) Persons furnishing, individually or with subcontractors, labor and materials, with or without plans, drawings, specifications, instruments of service, or other data concerning the labor and materials to be used for any of the following ~~as long as the utilization of the uniform building code or life safety code, as currently adopted by the division of architectural services of the state of Kansas,~~ *provided, compliance with the most recent edition of the international building code adopted by the international code conference and rules and regulations adopted by the state fire marshal,* is not required:

(1) Store fronts or facades, interior alterations or additions, fixtures, cabinet work, furniture, appliances or other equipment;

(2) work necessary to provide for installation of any item designated in subsection (c)(1);

(3) alterations or additions to a building necessary to, or attendant upon, installation of any item designated in subsection (c)(1), if the alteration or addition does not change or affect:

(A) The structural system of the building, which structural system includes, but is not limited to, foundations, walls, floors, roofs, footings,

bearing partitions, beams, columns or joists *and does not exceed the structural capacity of the system;*

(B) *the required exit capacities or exiting travel distances; or*

(C) *the required fire ratings of assemblies, fire separation walls or fire ratings required by building type.*

(d) Work involving matters of rates, rating and loss prevention by employees of insurance rating organizations and insurance service organizations and insurance companies and agencies.

(e) The performance of services by a licensed landscape architect or business entity issued a certificate of authorization to provide services in landscape architecture under K.S.A. 74-7036, and amendments thereto, in connection with landscape and site planning for the sites, approaches or environment for buildings, structures or facilities.

~~(f) For the purposes of this section:~~

~~(1) “Building” means any structure consisting of foundation, floors, walls, columns, girders, beams and roof, or a combination of any number of these parts, with or without other parts and appurtenances thereto, including the structural, mechanical and electrical systems utility services, and other facilities as may be required for the structure.~~

~~(2) “Agricultural building” means any structure designed and constructed to house hay, grain, poultry, livestock or other horticultural products and for farm storage of farming implements. Such structure shall not be a place for human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a building or structure for use by the public.~~

Sec. 23. K.S.A. 74-7032 is hereby amended to read as follows: 74-7032. The provisions of ~~this act~~ K.S.A. 74-7001 *et seq.*, and amendments thereto, requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036, and amendments thereto, to engage in the practice of landscape architecture shall not be construed to prevent or to affect:

(a) The right of any individual to engage in the occupation of growing and marketing nursery stock ~~or~~, to use the title nurseryman, landscape nurseryman or gardener, or to prohibit any individual to plan or plant such individual’s own property.

(b) The right of nurserymen to engage in preparing and executing planting plans.

(c) The practice of site development planning, in accordance with the practice of architecture, ~~or the practice of engineering.~~

(d) *The performance of those services described in subsection (k)(1) of K.S.A. 74-7003, and amendments thereto, by a licensed professional engineer, except that no licensed professional engineer shall perform the following services: (1) Planting plans; or (2) the determination of proper land use as it pertains to natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate.*

Sec. 24. K.S.A. 74-7033 is hereby amended to read as follows: 74-7033. The provisions of ~~this act~~ K.S.A. 74-7001 *et seq.*, and amendments thereto, requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036, and amendments thereto, to engage in the practice of engineering shall not be construed to prevent or to affect:

(a) Except as provided by subsection (b), the design or erection of any structure or work by a person who owns the structure or work, upon such person's own premises for such person's own use if the structure or work is not to be used for human habitation, is not to serve as a place of employment, and is not to be open to the public for any purpose whatsoever.

(b) Persons designing or erecting or preparing plans, drawings or specifications for ~~one or two family dwellings~~ *buildings housing no more than two dwelling units in one contiguous structure* or for agricultural buildings, as defined by K.S.A. 74-7031 and amendments thereto.

(c) Persons engaged in planning, drafting and designing of products manufactured for resale to the public.

(d) The performance of services by a licensed landscape architect in connection with landscape and site planning for the sites, approaches or environment for buildings, structures or facilities.

Sec. 25. K.S.A. 2013 Supp. 74-7034 is hereby amended to read as follows: 74-7034. The provisions of K.S.A. 74-7001 *et seq.*, and amendments thereto, requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036, and amendments thereto, to engage in the practice of ~~land~~ surveying shall not be construed to prevent or to affect:

(a) ~~The~~ *Those surveying activities, which include* locating or laying out of alignments, positions or elevations where such work is part of the construction of engineering or architectural works, *when such activities are for purposes other than the conveyance of an interest in real property.*

(b) The practice of ~~land~~ surveying by an individual of such individual's own real property or that of such individual's employer for purposes other than the conveyance of an interest in such real property.

(c) The surveying on farms for agricultural purposes other than the conveyance of an interest in such farm property.

(d) The performance of services by a licensed landscape architect or by a business entity issued a certificate of authorization to provide services in landscape architecture under K.S.A. 74-7036, and amendments thereto, in connection with landscape and site planning for the sites, approaches or environment for buildings, structures or facilities.

(e) *Mapping by governmental agencies when such activity does not involve the locating, relocating, or physical establishment of land boundaries and related monuments or the preparation of original or field retracement of existing descriptions of real property.*

New Sec. 26. The provisions of K.S.A. 74-7001 et seq., and amendments thereto, requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036, and amendments thereto, to engage in the practice of geology shall not be construed to prevent or to affect:

(a) The practice of geology by any person before July 1, 2000.

(b) The practice of geology which is exclusively in the exploration for and development of energy resources and economic minerals, and which does not affect the health, safety, property and welfare of the public, as determined by the board.

(c) The acquisition of engineering data, geologic data for engineering purposes and the utilization of such data by licensed professional engineers.

(d) The performance of work customarily performed by graduate physical or natural scientists.

(e) The teaching of geology in a college or university offering an approved geology curriculum.

Sec. 27. K.S.A. 74-7035 is hereby amended to read as follows: 74-7035. The provisions of ~~this act~~ K.S.A. 74-7001 et seq., and amendments thereto, shall not apply to:

(a) The work of an employee, *consultant* or a subordinate of a person holding a license under ~~this act~~ K.S.A. 74-7001 et seq., and amendments thereto, if such work does not include final designs or decisions, responsible charge of design ~~or supervision~~ and is done under the direct responsibility and supervision of a person practicing lawfully a technical profession;

~~(b) the practice of persons who are not residents of and have not established a place of business in this state, who are acting as consulting associates of persons licensed under the provisions of this act and who are legally qualified for such professional service in such persons' own state or country;~~

~~(c) the practice~~ work of any person who is exclusively and regularly employed by ~~one a single employer only, the, provided, such employer is not being an engineering, architectural or land, surveying, landscape architectural or geology firm, and the employer is not being primarily engaged in the business of conveying an interest in real property, in and also provided, such work is performed under an employer-employee relationship, in and~~ making surveys of land and determinations of physical property rights *is performed solely* in connection ~~only~~ with the affairs of such employer or its subsidiaries and affiliates and *solely* for the uses, purposes and benefit of such employer, subsidiaries and affiliates, ~~only;~~

~~(d)~~ (c) a plumbing contractor, master plumber or journeyman plumber licensed under the provisions of K.S.A. 12-1508 et seq., and amendments thereto, while performing the work such plumber is authorized to perform pursuant to such license; or

~~(e)~~(d) an electrical contractor, master electrician, journeyman electrician or residential electrician licensed under the provisions of K.S.A. 12-1525 et seq., and amendments thereto, while performing the work such electrician is authorized to perform pursuant to such license.

~~(f)~~(e) For purposes of this act, public officers and employees who, within the scope of their employment and in the discharge of their public duties, provide information pertinent to or review the sufficiency of technical submissions, or who inspect property or buildings for compliance with requirements safeguarding life, health or property, are not engaged in the practice of the technical professions.

Sec. 28. K.S.A. 2013 Supp. 74-7036 is hereby amended to read as follows: 74-7036. (a) Notwithstanding any other provision of law, a business entity ~~may be~~ organized for the practice of one or more of the technical professions ~~if shall obtain a certificate of authorization pursuant to this section prior to doing business in this state. To obtain a certificate of authorization a business entity must meet the following:~~

(1) One or more principals is designated as *being in responsible charge* for the activities and decisions relating to the practice of such profession and is licensed to practice such profession by the board and is a regular employee of and active participant in the business entity;

(2) each person engaged in the practice of the technical profession is licensed to practice such profession by the board, or is exempt from licensure under K.S.A. 74-7031 through 74-7035, and amendments thereto, or is exempt from examination for licensure in this state under K.S.A. 74-7024, and amendments thereto; and

(3) ~~such business entity has been issued a certificate of authorization by the board~~ *each separate office or place of business established in this state by the business entity has a licensed professional who is regularly supervising the work of an office or place of business and has responsible charge of each respective technical professional practicing in the office. This requirement shall not apply to offices or places of business established to provide construction administration services only.*

(b) A business entity ~~may~~ *shall* apply to the board for a certificate of authorization, upon a form prescribed by the board, listing the names and addresses of all principals licensed to practice the technical profession and such other information as may be required by the board. The application for a certificate of authorization shall be accompanied by an application fee fixed by the board under K.S.A. 74-7009, and amendments thereto. ~~Except as provided in subsection (c),~~ The certificate of authorization shall be renewed biennially. The biennial renewal fee fixed by the board under K.S.A. 74-7009, and amendments thereto, shall be accompanied by a form prescribed by the board providing current information. In the event of a change of any principal, such change shall be provided to the board within 30 days after the effective date of such change.

(c) If the board finds that such business entity is in compliance with all of the requirements of this section, the board shall issue a certificate of authorization to such business entity designating the technical profession for which such business entity is authorized to provide services.

(d) No business entity issued a certificate of authorization under this section shall be relieved of responsibility for the conduct or acts of its agents, employees or principals by reason of its compliance with the provisions of this section, nor shall any individual practicing a technical profession be relieved of responsibility and liability for services performed by reason of employment or relationship with such business entity. The requirements of this section shall not affect a business entity and its employees in performing services included within the term “technical professions” solely for the benefit of such business entity or subsidiary or affiliated business entities. Nothing in this section shall exempt any business entity from the provisions of any other law applicable thereto.

~~(e) (1) The board is hereby authorized to issue a one-time renewal of the certificate of authorization for a business entity for a one-year period under the following conditions:~~

~~(A) The certificate of authorization is scheduled for renewal on or after December 31, 2010;~~

~~(B) the name of the business entity begins with a letter in the last half of the alphabet;~~

~~(C) the board notifies the business entity that its certificate of authorization will be renewed for one year; and~~

~~(D) the fee for renewal under this subsection shall be one-half of the biennial renewal fee set forth in K.S.A. 74-7009, and amendments thereto.~~

~~(2) Any certificate of authorization which has been renewed for a period of one year in accordance with this subsection shall be subsequently renewed on a biennial basis as prescribed by K.S.A. 74-7001 et seq., and amendments thereto.~~

~~(3) No certificate of authorization shall be renewed for a period of one year on or after January 1, 2012.~~

Sec. 29. K.S.A. 74-7038 is hereby amended to read as follows: 74-7038. A public official charged with the enforcement of any state, county or municipal building code shall not accept or approve any technical submissions involving the practice of the technical professions unless the technical submissions have been stamped with the technical professional’s seal, *signed and dated* as required by ~~this act~~ K.S.A. 74-7001 *et seq.*, and *amendments thereto*, or unless the applicant has certified on the technical submission to the applicability of a specific exception provided for in K.S.A. 74-7035, and amendments thereto, permitting the preparation of the technical submissions by a person not licensed under ~~this act~~ K.S.A. 74-7001 *et seq.*, and *amendments thereto*. A building permit issued with

respect to technical submissions which does not conform to the requirements of ~~this act~~ K.S.A. 74-7001 *et seq.*, and amendments thereto, is invalid. The acceptance or approval of technical submissions or the issuance of a building permit by a public official engaged in building inspection responsibilities, contrary to the provisions of ~~this act~~ K.S.A. 74-7001 *et seq.*, and amendments thereto, shall not create liability upon the public official or the official's governmental agency.

Sec. 30. K.S.A. 74-7039 is hereby amended to read as follows: 74-7039. (a) ~~The state board of technical professions, in addition to any other penalty prescribed under the act governing the technical professions K.S.A. 74-7001 et seq., and amendments thereto, may assess civil fines and costs, including attorney fees, after proper notice and an opportunity to be heard, against any person or entity for a violation of the statutes, rules and regulations or orders enforceable by the board in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. All civil fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. All costs assessed under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the technical professions fee fund.~~

(b) *The board may also assess costs, including attorney fees, against any person or entity for a violation of the statutes, rules and regulations or orders enforceable by the board in addition to any fine imposed. All costs assessed under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the technical professions fee fund.*

(c) In determining the amount of penalty to be assessed pursuant to this section, the board may consider the following factors among others:

- (1) Willfulness of the violation;
- (2) repetitions of the violation; and
- (3) magnitude of the risk of harm *to the health, safety, property and welfare of the public* caused by the violation.

Sec. 31. K.S.A. 74-7040 is hereby amended to read as follows: 74-7040. Any person licensed to practice the technical professions in the state of Kansas at the time this act takes effect shall thereafter continue to possess the same rights and privileges with respect to the practice of the technical profession for which such person is licensed, *in accordance*

*with the current definition of the practice of such technical profession, without being required to obtain a new license under the provisions of this act, subject to the power of the board as provided in this act to suspend or revoke the license of any such person for any of the causes set forth in K.S.A. 74-7026, and amendments thereto, and subject to the power of the board to require any such person to renew such license as provided in K.S.A. 74-7025, and amendments thereto.*

Sec. 32. K.S.A. 2013 Supp. 74-7046 is hereby amended to read as follows: 74-7046. (a) A ~~land~~ *professional* surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such *professional* surveyor's authorized agents and employees may enter upon lands, waters and premises of a party who has not requested the survey when it is necessary for the purpose of making a survey. If the licensed *professional* surveyor has made a reasonable attempt to notify the person in possession, such entry shall not be deemed a trespass. Upon notice, such person in possession has the right to modify the time and other provisions of the *professional* surveyor's access upon notification to the surveyor, as long as such modifications do not unreasonably restrict completion of the survey. Nothing herein shall change the status of the licensed *professional* surveyor as an occupier of land.

(b) While conducting surveys, the licensed *professional* surveyor and such *professional* surveyor's authorized agents and employees shall carry proper identification as to such *professional* surveyor's licensure or employment and shall display such identification to anyone upon request.

(c) Neither the landowner nor the person in possession shall be liable for any injury or damage sustained by a licensed *professional* surveyor or such *professional* surveyor's authorized agents and employees entering upon such land, water or premises under the provisions of this section, except when such damages and injury were willfully or deliberately caused by the landowner or person in possession.

(d) Nothing in this section shall be construed to:

(1) Remove civil liability for actual damage to such lands, waters, premises, crops or personal property;

(2) give the licensed *professional* surveyor or such *professional* surveyor's authorized agents and employees the authority to enter any building or structure used as a residence or for storage; and

(3) remove civil or criminal liability for intentional acts of injury or for damages to the *professional* surveyor or authorized agents and employees.

Sec. 33. K.S.A. 2013 Supp. 74-99b16 is hereby amended to read as follows: 74-99b16. (a) As used in this section, unless the context expressly provides otherwise:

(1) "Ancillary technical services" include, but shall not be limited to, geology services and other soil or subsurface investigation and testing

services, surveying, adjusting and balancing of air conditioning, ventilating, heating and other mechanical building systems, testing and consultant services that are determined by the bioscience authority to be required for a project;

(2) “architectural services” means those services described by ~~subsection (e) of~~ *as the “practice of architecture,” as defined in K.S.A. 74-7003, and amendments thereto;*

(3) “construction services” means the work performed by a construction contractor to commence and complete a project;

(4) “construction management at-risk services” means the services provided by a firm which has entered into a contract with the bioscience authority to be the construction manager at risk for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor and which is required to solicit competitive bids for the trade packages developed for a project and to enter into the trade contracts for a project with the lowest responsible bidder therefor, and may include, but are not limited to, such services as scheduling, value analysis, systems analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees, and construction coordination;

(5) “division of facilities management” means the division of facilities management of the department of administration;

(6) “engineering services” means those services described by ~~subsection (i) of~~ *as the “practice of engineering,” as defined in K.S.A. 74-7003, and amendments thereto;*

(7) “firm” means: (A) With respect to architectural services, an individual, firm, partnership, corporation, association or other legal entity which is: (i) Permitted by law to practice the profession of architecture; and (ii) maintaining an office in Kansas staffed by one or more architects who are licensed by the board of technical professions; or (iii) not maintaining an office in Kansas, but which is qualified to perform special architectural services that are required in special cases where in the judgment of the bioscience authority it is necessary to go outside the state to obtain such services; (B) with respect to engineering services or land surveying, an individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of engineering and provide engineering services or practice the profession of land surveying and provide land surveying services, respectively; (C) with respect to construction management at-risk services, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to perform construction management at-risk services; (D) with respect to ancillary technical services or other services that are determined by the bioscience authority to be required for a project, a qualified individual, firm, partnership, corporation, association or other legal

entity permitted by law to practice the required profession or perform the other required services, as determined by the bioscience authority; and (E) with respect to construction services, a qualified individual, firm, partnership, corporation, association, or other legal entity permitted by law to perform construction services for a project;

(8) “land surveying” means those services described ~~in subsection (j) of~~ as “professional surveying,” as defined in K.S.A. 74-7003, and amendments thereto;

(9) “negotiating committee” means the board of directors of the subsidiary corporation formed under K.S.A. 2013 Supp. 76-781, and amendments thereto, except that for the period of May 1, 2008, through May 1, 2009, the term shall have the meaning set forth in subsection (b) of K.S.A. 75-1251, and amendments thereto;

(10) “project” means a project undertaken by the Kansas bioscience authority;

(11) “project services” means architectural services, engineering services, land surveying, construction management at-risk services, construction services, ancillary technical services or other construction-related services determined by the bioscience authority to be required for a project; and

(12) “state building advisory commission” means the state building advisory commission created by K.S.A. 75-3780, and amendments thereto.

(b) The bioscience authority, when acting under authority of this act, and each project authorized by the bioscience authority under this act are exempt from the provisions of K.S.A. 75-1269, 75-3738 through 75-3741b, 75-3742 through 75-3744, and 75-3783, and amendments thereto, except as otherwise specifically provided by this act.

(c) Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, or the provisions of any other statute to the contrary, all contracts for any supplies, materials or equipment for a project authorized by the bioscience authority under this act, shall be entered into in accordance with procurement procedures determined by the bioscience authority, subject to the provisions of this section, except that, in the discretion of the bioscience authority, any such contract may be entered into in the manner provided in and subject to the provisions of any such statute otherwise applicable thereto. Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, if the bioscience authority does not obtain construction management at-risk services for a project, the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services for such project shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the bioscience authority which shall be consistent with the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(d) When it is necessary in the judgment of the bioscience authority to obtain project services for a particular project by conducting negotiations therefor, the bioscience authority shall publish a notice of the commencement of negotiations for the required project services at least 15 days prior to the commencement of such negotiations in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the bioscience authority.

(e) (1) Notwithstanding the provisions of subsection (b) of K.S.A. 75-1251, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-1250 through 75-1270, and amendments thereto, with respect to the procurement of architectural services for a project authorized by the bioscience authority under this act, “negotiating committee” shall mean the board of directors of the subsidiary corporation formed under K.S.A. 2013 Supp. 76-781, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required architectural services for the project in accordance with the provisions of K.S.A. 75-1250 through 75-1270, and amendments thereto, except that no limitation on the fees for architectural services for the project shall apply to the fees negotiated by the board of directors for such architectural services, except that for the period of May 1, 2008, through May 1, 2009, the “negotiating committee” shall have the meaning set forth in subsection (b) of K.S.A. 75-1251, and amendments thereto, and the board of directors of the subsidiary corporation formed under K.S.A. 2013 Supp. 76-781, and amendments thereto, shall have no role in the procurement of architectural services for a project.

(2) Notwithstanding the provisions of subsection (e) of K.S.A. 75-5802, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-5801 through 75-5807, and amendments thereto, with respect to the procurement of engineering services or land surveying services for a project authorized by the bioscience authority under this act, “negotiating committee” shall mean the board of directors of the subsidiary corporation formed under K.S.A. 2013 Supp. 76-781, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required engineering services or land surveying services for the project in accordance with the provisions of K.S.A. 75-5801 through 75-5807, and amendments thereto, except that for the period of May 1, 2008, through May 1, 2009, the “negotiating committee” shall have the meaning set forth in subsection (b) of K.S.A. 75-1251, and amendments thereto, and the board of directors of the subsidiary corporation formed under K.S.A. 2013 Supp. 76-781, and amendments thereto, shall have no role in the procurement of engineering services or land surveying services for a project.

(3) In any case of a conflict between the provisions of this section and the provisions of K.S.A. 75-1250 through 75-1270, or 75-5801 through

75-5807, and amendments thereto, with respect to a project authorized by the bioscience authority under this act, the provisions of this section shall govern.

(f) (1) For the procurement of construction management at-risk services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction management at-risk services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to: (A) The firm's capacity and experience, including experience on similar or related projects;; (B) the capabilities and other qualifications of the firm's personnel;; and (C) performance data of all consultants the firm proposes to use.

(2) Whenever the bioscience authority determines that a construction manager at risk is required for a project under this act, the bioscience authority shall notify the state building advisory commission and the state building advisory commission shall prepare a list of at least three and not more than five firms which are, in the opinion of the state building advisory commission, qualified to serve as construction manager at risk for the project. Such list shall be submitted to the negotiating committee, without any recommendation of preference or other recommendation. The negotiating committee shall have access to statements of qualifications of and performance data on the firms listed by the state building advisory commission and all information and evaluations regarding such firms gathered and developed by the secretary of administration under K.S.A. 75-3783, and amendments thereto.

(3) The negotiating committee shall conduct discussions with each of the firms so listed regarding the project. The negotiating committee shall determine which construction management at-risk services are desired and then shall proceed to negotiate with and attempt to enter into a contract with the firm considered to be most qualified to serve as construction manager at risk for the project. The negotiating committee shall proceed in accordance with the same process with which negotiations are undertaken to contract with a firm to be a project architect under K.S.A. 75-1257, and amendments thereto, to the extent that such provisions can be made to apply. Should the negotiating committee be unable to negotiate a satisfactory contract with the firm considered to be most qualified, negotiations with that firm shall be terminated and shall undertake negotiations with the second most qualified firm, and so forth, in accordance with that statute.

(4) The contract to perform construction management at-risk services for a project shall be prepared by the division of facilities management and entered into by the bioscience authority with the firm contracting to perform such construction management at-risk services.

(g) (1) To assist in the procurement of construction services for pro-

jects under this act, the secretary of administration shall encourage firms engaged in the performance of construction services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to: (A) The firm's capacity and experience, including experience on similar or related projects;; (B) the capabilities and other qualifications of the firm's personnel;; (C) performance data of all subcontractors the firm proposes to use;; and (D) such other information related to the qualifications and capability of the firm to perform construction services for projects as may be prescribed by the secretary of administration.

(2) The construction manager at risk shall publish a construction services bid notice in the Kansas register and in such other appropriate manner as may be determined by the bioscience authority. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager at risk and the state bioscience authority with the assistance of the division of facilities management. The current statements of qualifications of and performance data on the firms submitting bid proposals shall be made available to the construction manager at risk and the bioscience authority by the state building advisory commission along with all information and evaluations developed regarding such firms by the secretary of administration under K.S.A. 75-3783, and amendments thereto. Each firm submitting a bid proposal shall be bonded in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bond to the construction manager at risk prior to submitting a bid proposal. If a firm submitting a bid proposal fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection. At the time for opening the bids, the construction manager at risk shall evaluate the bids and shall determine the lowest responsible bidder. The construction manager at risk shall enter into contracts with each firm performing the construction services for the project and make a public announcement of each firm selected in accordance with this subsection.

(h) The division of facilities management shall provide such information and assistance as may be requested by the bioscience authority or the negotiating committee for a project, including all or part of any project services as requested by the bioscience authority, and: (1) Shall prepare the request for proposals and publication information for each publication of notice under this section, subject to the provisions of this section;; (2) shall prepare each contract for project services for a project, including each contract for construction services for a project;; (3) shall conduct design development reviews for each project;; (4) shall review and approve all construction documents for a project prior to soliciting bids or otherwise soliciting proposals from construction contractors or construction service providers for a project;; (5) shall obtain and maintain copies

of construction documents for each project; and (6) shall conduct periodic inspections of each project, including jointly conducting the final inspection of each project.

(i) Notwithstanding the provisions of any other statute, the bioscience authority shall enter into one or more contracts with the division of facilities management for each project for the services performed by the division of facilities management for the project as required by this section or at the request of the bioscience authority. The division of facilities management shall receive fees from the bioscience authority to recover the costs incurred to provide such services pursuant to such contracts.

(j) Design development reviews and construction document reviews conducted by the division of facilities management shall be limited to ensuring only that the construction documents do not change the project description and that the construction documents comply with the standards established under K.S.A. 75-3783, and amendments thereto, by the secretary of administration for the planning, design and construction of buildings and major repairs and improvements to buildings for state agencies, including applicable building and life safety codes and appropriate and practical energy conservation and efficiency standards.

(k) Each project for a bioscience research institution shall receive a final joint inspection by the division of facilities management and the bioscience authority. Each such project shall be officially accepted by the bioscience authority before such project is occupied or utilized by the bioscience research institution, unless otherwise agreed to in writing by the contractor and the bioscience authority as to the satisfactory completion of the work on part of the project that is to be occupied and utilized, including any corrections of the work thereon.

(1) (1) The bioscience authority shall issue monthly reports of progress on each project and shall advise and consult with the joint committee on state building construction regarding each project. Change orders and changes of plans for a project shall be authorized or approved by the bioscience authority.

(2) No change order or change of plans for a project involving either cost increases of \$75,000 or more or involving a change in the proposed use of a project shall be authorized or approved by the bioscience authority without having first advised and consulted with the joint committee on state building construction.

(3) Change orders or changes in plans for a project involving a cost increase of less than \$75,000 and any change order involving a cost reduction, other than a change in the proposed use of the project, may be authorized or approved by the bioscience authority without prior consultation with the joint committee on state building construction. The bioscience authority shall report to the joint committee on state building construction all action relating to such change orders or changes in plans.

(4) If the bioscience authority determines that it is in the best interest

of the state to authorize or approve a change order, a change in plans or a change in the proposed use of any project that the bioscience authority is required to first advise and consult with the joint committee on state building construction prior to issuing such approval and if no meeting of the joint committee is scheduled to take place within the next 10 business days, then the bioscience authority may use the procedure authorized by subsection (d) of K.S.A. 75-1264, and amendments thereto, in lieu of advising and consulting with the joint committee at a meeting. In any such case, the bioscience authority shall mail a summary description of the proposed change order, change in plans or change in the proposed use of any project to each member of the joint committee on state building construction and to the director of the legislative research department. If the bioscience authority provides notice and information to the members of the joint committee and to such director in the manner required and subject to the same provisions and conditions that apply to the secretary of administration under such statute, and if less than two members of the joint committee contact the director of the legislative research department within seven business days of the date the summary description was mailed and request a presentation and review of any such proposed change order, change in plans or change in use at a meeting of the joint committee, then the bioscience authority shall be deemed to have advised and consulted with the joint committee about such proposed change order, change in plans or change in proposed use and may authorize or approve such proposed change order, change in plans or change in proposed use.

(m) The provisions of this section shall apply to each project authorized by the bioscience authority under this act and shall not apply to any other capital improvement project of the bioscience authority or bioscience research institution that is specifically authorized by any other statute.

Sec. 34. K.S.A. 2013 Supp. 75-1251 is hereby amended to read as follows: 75-1251. As used in K.S.A. 75-1250 through 75-1267, and amendments thereto, unless the context otherwise requires, the following terms shall be defined as follows:

(a) “Firm” means any individual, firm, partnership, corporation, association, or other legal entity that is permitted by law to practice the profession of architecture, engineering or land surveying.

(b) “Negotiating committee” means a committee to negotiate as provided in this act, and consisting of the following members: (1) The head of the state agency for which the proposed project is planned or of the state agency that controls and supervises the operation and management of the institution for which the proposed project is planned, if such is the case, or a person designated by the head of the agency; (2) the head of the institution for which the proposed project is planned, or a person

designated by the head of the institution. When the proposed project is not planned for an institution, the state agency head shall designate a second person in lieu of the head of an institution; and (3) the secretary of administration, or a person designated by the secretary, who shall act as chairperson of the committee.

(c) “Architectural services” means any of the following: (1) The practice of architecture, as defined in ~~subsection (c) of~~ K.S.A. 74-7003, and amendments thereto;

(2) the practice of landscape architecture, as defined in ~~subsection (g) of~~ K.S.A. 74-7003, and amendments thereto; and

(3) interior design services.

(d) “Project architect, engineer or land surveyor” means a firm employed under K.S.A. 75-1250 through 75-1267, and amendments thereto, for a particular project.

(e) “State building advisory commission” means the state building advisory commission created by K.S.A. 75-3780, and amendments thereto, or any duly authorized officer or employee of such commission.

(f) “State agency” includes any state institution.

(g) “Engineering services” means those services ~~prescribed in subsection (i) of~~ described as the “practice of engineering,” as defined in K.S.A. 74-7003, and amendments thereto, as related to building construction defined in this section.

(h) “Land surveying” means those services ~~prescribed in subsection (k) of~~ described as “professional surveying,” as defined in K.S.A. 74-7003, and amendments thereto, as related to building construction defined in this section.

(i) “Agency head” means the chief administrative officer of a state agency, as the term is defined in subsection (3) of K.S.A. 75-3701, and amendments thereto, but shall not include the chief administrative officer of any state institution.

(j) “Building construction” means furnishing and utilizing labor, equipment, materials or supplies used or consumed for the construction, alteration, renovation, repair or maintenance of a building or structure. Building construction does not include highways, roads, bridges, dams, turnpikes or related structures, including, but not limited to, rest areas and visitor centers or stand-alone parking lots.

Sec. 35. K.S.A. 2013 Supp. 75-37,142 is hereby amended to read as follows: 75-37,142. As used in the Kansas alternative project delivery construction procurement act, unless the context expressly provides otherwise:

(a) “Act” means the Kansas alternative project delivery building construction procurement act.

(b) “Agency” means the agency or state educational institution, as

defined in K.S.A. 76-756, and amendments thereto, with the authority to award public contracts for building design and construction.

(c) “Alternative project delivery” means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor or building design-build team is selected based on a qualifications and best value approach.

(d) “Ancillary technical services” include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing air conditioning, ventilating, heating and other mechanical building systems and testing and consultant services that are determined by the agency to be required for the project.

(e) “Architectural services” means those services described by ~~subsection (e) of~~ *as the “practice of architecture,” as defined in K.S.A. 74-7003, and amendments thereto.*

(f) “Best value selection” means a selection based upon project cost, qualifications and other factors.

(g) “Building construction” means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure. Building construction does not include highways, roads, bridges, dams, turnpikes or related structures, or stand-alone parking lots.

(h) “Building design-build” means a project for which the design and construction services are furnished under one contract.

(i) “Building design-build contract” means a contract between the agency and a design-builder to furnish the architecture or engineering and related design services required for a given public facilities construction project and to furnish the labor, materials and other construction services for such public project.

(j) “Construction services” means the process of planning, acquiring, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding highways, roads, bridges, dams, turnpikes or related structures, or stand-alone parking lots.

(k) “Construction management at-risk services” means the services provided by a firm which has entered into a contract with the agency to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may include, but are not limited to sched-

uling, value analysis, system analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees, and construction coordination.

(l) “Construction management at-risk contract” means the contract whereby the state agency acquires from a construction manager or general contractor a series of preconstruction services and an at-risk financial obligation to carry out construction under a specified cost agreement.

(m) “Construction manager or general contractor” means any individual, partnership, joint venture, corporation, or other legal entity who is a member of the integrated project team with the state agency, design professional and other consultants that may be required for the project, who utilizes skill and knowledge of general contracting to perform preconstruction services and competitively procures and contracts with specialty contractors assuming the responsibility and the risk for construction delivery within a specified cost and schedule terms including a guaranteed maximum price.

(n) “Design-builder” means any individual, partnership, joint venture, corporation or other legal entity that furnishes the architectural or engineering services and construction services, whether by itself or through subcontracts.

(o) “Design criteria consultant” means a person, corporation, partnership, or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to K.S.A. 74-7003, and amendments thereto, and who is employed by contract to the agency to provide professional design and administrative services in connection with the preparation of the design criteria package.

(p) “Design criteria package” means performance-oriented specifications for the public construction project sufficient to permit a design-builder to prepare a response to the division’s request for proposals for a building design-build project.

(q) “Director” means the director of the division of facilities management.

(r) “Division of facilities management” means the division of facilities management of the department of administration.

(s) “Engineering services” means those services described by subsection (i) of *as the “practice of engineering,” as defined in K.S.A. 74-7003, and amendments thereto.*

(t) “Guaranteed maximum price” means the cost of the work as defined in the contract.

(u) “Negotiating committee” means a group of individuals as defined by K.S.A. 75-1251 and 75-5802, and amendments thereto.

(v) “Parking lot” means a designated area constructed on the ground surface for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act.

A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

(w) “Preconstruction services” means a series of services that can include, but are not necessarily limited to: Design review, scheduling, cost control, value engineering, constructability evaluation, and preparation and coordination of bid packages.

(x) “Project services” means architectural, engineering services, land surveying, construction management at-risk services, ancillary technical services or other construction-related services determined by the agency to be required by the project.

(y) “Public construction project” means the process of designing, constructing, reconstructing, altering or renovating a public building or other structure. Public construction project does not include the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.

(z) “State building advisory commission” means the state building advisory commission created by K.S.A. 75-3780, and amendments thereto.

(aa) “Stipend” means an amount paid to the unsuccessful proposers to defray the cost of submission of phase II of the building design-build proposal.

Sec. 36. K.S.A. 75-5802 is hereby amended to read as follows: 75-5802. As used in this act unless the context specifically requires otherwise:

(a) “Firm” means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of engineering and provide engineering services or practice the profession of land surveying and provide land surveying services.

(b) “Engineering services” means those services described ~~in subsection (i) of~~ *as the “practice of engineering,” as defined in K.S.A. 74-7003, and amendments thereto.*

(c) “Land surveying” means those services described ~~in subsection (j) of~~ *as “professional surveying,” as defined in K.S.A. 74-7003, and amendments thereto.*

(d) “Agency head” means the chief administrative officer of a state agency, as that term is defined in subsection (3) of K.S.A. 75-3701, and amendments thereto, but shall not include the chief administrative officer of any state institution.

(e) “Negotiating committee” means a committee designated to negotiate as provided in this act, and consisting of: (1) The agency head of the state agency for which the proposed project is planned, or a person designated by such agency head;; (2) the secretary of administration, or a person designated by ~~said~~ *such* secretary;; and (3) the chief administrative officer of the state institution for which the proposed project is planned, or when the proposed project is not planned for a state insti-

tution, the agency head shall designate a second person in lieu of the chief administrative officer of a state institution.

(f) “Project” means any capital improvement project or any study, plan, survey or program activity of a state agency, including development of new or existing programs and preparation of federal grant applications.

(g) “State building advisory commission” means the state building advisory commission created by K.S.A. 75-3780, and amendments thereto, or any duly authorized officer or employee of such commission.

Sec. 37. K.S.A. 2013 Supp. 76-786 is hereby amended to read as follows: 76-786. (a) As used in this section, unless the context expressly provides otherwise:

(1) “Ancillary technical services” include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing of air conditioning, ventilating, heating and other mechanical building systems, testing and consultant services that are determined by the board of regents to be required for a project;

(2) “architectural services” means those services described by ~~subsection (e) of~~ *as the “practice of architecture,” as defined in K.S.A. 74-7003, and amendments thereto;*

(3) “construction services” means the work performed by a construction contractor to commence and complete a project;

(4) “construction management at-risk services” means the services provided by a firm which has entered into a contract with the board of regents to be the construction manager at risk for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor and which is required to solicit competitive bids for the trade packages developed for a project and to enter into the trade contracts for a project with the lowest responsible bidder therefor, and may include, but are not limited to, such services as scheduling, value analysis, systems analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees, and construction coordination;

(5) “division of facilities management” means the division of facilities management of the department of administration;

(6) “engineering services” means those services described by ~~subsection (i) of~~ *as the “practice of engineering,” as defined in K.S.A. 74-7003, and amendments thereto;*

(7) “firm” means: (A) With respect to architectural services, an individual, firm, partnership, corporation, association or other legal entity which is: (i) Permitted by law to practice the profession of architecture; and (ii) maintaining an office in Kansas staffed by one or more architects who are licensed by the board of technical professions; or (iii) not main-

taining an office in Kansas, but which is qualified to perform special architectural services that are required in special cases where in the judgment of the board of regents it is necessary to go outside the state to obtain such services; (B) with respect to engineering services or land surveying, an individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of engineering and provide engineering services or practice the profession of land surveying and provide land surveying services, respectively; (C) with respect to construction management at-risk services, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to perform construction management at-risk services; (D) with respect to ancillary technical services or other services that are determined by the board of regents to be required for a project, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the required profession or perform the other required services, as determined by the board of regents; and (E) with respect to construction services, a qualified individual, firm, partnership, corporation, association, or other legal entity permitted by law to perform construction services for a project;

(8) “land surveying” means those services described in ~~subsection (j) of~~ *as “professional surveying,” as defined in K.S.A. 74-7003, and amendments thereto;*

(9) “negotiating committee” means the board of directors of the subsidiary corporation formed under K.S.A. 2013 Supp. 76-781, and amendments thereto;

(10) “project” means: (A) The project for the KSU food safety and security research facility; (B) the project for the KUMC biomedical research facility; (C) the project for the WSU engineering complex expansion and research laboratory; or (D) the project for the acquisition and installation of equipment for the KU biosciences research building, which are funded from the proceeds of the bonds authorized to be issued under K.S.A. 2013 Supp. 76-783, and amendments thereto, within the limitation of \$120,000,000, in the aggregate, plus all amounts required for costs of any bond issuance, costs of interest on any bond issued or obtained for such scientific research and development facilities and any required reserves for payment of principal and interest on any such bond, and from any moneys received as gifts, grants or otherwise from any public or private nonstate source;

(11) “project services” means architectural services, engineering services, land surveying, construction management at-risk services, construction services, ancillary technical services or other construction-related services determined by the board of regents to be required for a project; and

(12) “state building advisory commission” means the state building

advisory commission created by K.S.A. 75-3780, and amendments thereto.

(b) The board of regents, when acting under authority of this act, and each project authorized by the board of regents under this act are exempt from the provisions of K.S.A. 75-1269, 75-3738 through 75-3741b, 75-3742 through 75-3744, and 75-3783, and amendments thereto, except as otherwise specifically provided by this act.

(c) Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, or the provisions of any other statute to the contrary, all contracts for any supplies, materials or equipment for a project authorized by the board of regents under this act, shall be entered into in accordance with procurement procedures determined by the board of regents, subject to the provisions of this section, except that, in the discretion of the board of regents, any such contract may be entered into in the manner provided in and subject to the provisions of any such statute otherwise applicable thereto. Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, if the board of regents does not obtain construction management at-risk services for a project, the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services for such project shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the board of regents which shall be consistent with the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(d) When it is necessary in the judgment of the board of regents to obtain project services for a particular project by conducting negotiations therefor, the board of regents shall publish a notice of the commencement of negotiations for the required project services at least 15 days prior to the commencement of such negotiations in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the board of regents.

(e) (1) Notwithstanding the provisions of subsection (b) of K.S.A. 75-1251, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-1250 through 75-1270, and amendments thereto, with respect to the procurement of architectural services for a project authorized by the board of regents under this act, "negotiating committee" shall mean the board of directors of the subsidiary corporation formed under K.S.A. 2013 Supp. 76-781, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required architectural services for the project in accordance with the provisions of K.S.A. 75-1250 through 75-1270, and amendments thereto, except that no limitation on the fees for architectural services for the project shall apply to the fees negotiated by the board of directors for such architectural services.

(2) Notwithstanding the provisions of subsection (e) of K.S.A. 75-

5802, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-5801 through 75-5807, and amendments thereto, with respect to the procurement of engineering services or land surveying services for a project authorized by the board of regents under this act, “negotiating committee” shall mean the board of directors of the subsidiary corporation formed under K.S.A. 2013 Supp. 76-781, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required engineering services or land surveying services for the project in accordance with the provisions of K.S.A. 75-5801 through 75-5807, and amendments thereto.

(3) In any case of a conflict between the provisions of this section and the provisions of K.S.A. 75-1250 through 75-1270, or 75-5801 through 75-5807, and amendments thereto, with respect to a project authorized by the board of regents under this act, the provisions of this section shall govern.

(f) (1) For the procurement of construction management at-risk services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction management at-risk services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to: (A) The firm’s capacity and experience, including experience on similar or related projects; (B) the capabilities and other qualifications of the firm’s personnel; and (C) performance data of all consultants the firm proposes to use.

(2) Whenever the board of regents determines that a construction manager at risk is required for a project under this act, the board of regents shall notify the state building advisory commission and the state building advisory commission shall prepare a list of at least three and not more than five firms which are, in the opinion of the state building advisory commission, qualified to serve as construction manager at risk for the project. Such list shall be submitted to the negotiating committee, without any recommendation of preference or other recommendation. The negotiating committee shall have access to statements of qualifications of and performance data on the firms listed by the state building advisory commission and all information and evaluations regarding such firms gathered and developed by the secretary of administration under K.S.A. 75-3783, and amendments thereto.

(3) The negotiating committee shall conduct discussions with each of the firms so listed regarding the project. The negotiating committee shall determine which construction management at-risk services are desired and then shall proceed to negotiate with and attempt to enter into a contract with the firm considered to be most qualified to serve as construction manager at risk for the project. The negotiating committee shall proceed in accordance with the same process with which negotiations are

undertaken to contract with a firm to be a project architect under K.S.A. 75-1257, and amendments thereto, to the extent that such provisions can be made to apply. Should the negotiating committee be unable to negotiate a satisfactory contract with the firm considered to be most qualified, negotiations with that firm shall be terminated and shall undertake negotiations with the second most qualified firm, and so forth, in accordance with that statute.

(4) The contract to perform construction management at-risk services for a project shall be prepared by the division of facilities management and entered into by the board of regents with the firm contracting to perform such construction management at-risk services.

(g) (1) To assist in the procurement of construction services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to: (A) The firm's capacity and experience, including experience on similar or related projects;; (B) the capabilities and other qualifications of the firm's personnel;; (C) performance data of all subcontractors the firm proposes to use;; and (D) such other information related to the qualifications and capability of the firm to perform construction services for projects as may be prescribed by the secretary of administration.

(2) The construction manager at risk shall publish a construction services bid notice in the Kansas register and in such other appropriate manner as may be determined by the board of regents. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager at risk and the state board of regents with the assistance of the division of facilities management. The current statements of qualifications of and performance data on the firms submitting bid proposals shall be made available to the construction manager at risk and the board of regents by the state building advisory commission along with all information and evaluations developed regarding such firms by the secretary of administration under K.S.A. 75-3783, and amendments thereto. Each firm submitting a bid proposal shall be bonded in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bond to the construction manager at risk prior to submitting a bid proposal. If a firm submitting a bid proposal fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection. At the time for opening the bids, the construction manager at risk shall evaluate the bids and shall determine the lowest responsible bidder. The construction manager at risk shall enter into contracts with each firm performing the construction services for the project and make a public announcement of each firm selected in accordance with this subsection.

(h) The division of facilities management shall provide such information and assistance as may be requested by the board of regents or the negotiating committee for a project, including all or part of any project services as requested by the board of regents, and: (1) Shall prepare the request for proposals and publication information for each publication of notice under this section, subject to the provisions of this section;; (2) shall prepare each contract for project services for a project, including each contract for construction services for a project;; (3) shall conduct design development reviews for each project;; (4) shall review and approve all construction documents for a project prior to soliciting bids or otherwise soliciting proposals from construction contractors or construction service providers for a project;; (5) shall obtain and maintain copies of construction documents for each project;; and (6) shall conduct periodic inspections of each project, including jointly conducting the final inspection of each project.

(i) Notwithstanding the provisions of any other statute, the board of regents shall enter into one or more contracts with the division of facilities management for each project for the services performed by the division of facilities management for the project as required by this section or at the request of the board of regents. The division of facilities management shall receive fees from the board of regents to recover the costs incurred to provide such services pursuant to such contracts.

(j) Design development reviews and construction document reviews conducted by the division of facilities management shall be limited to ensuring only that the construction documents do not change the project description and that the construction documents comply with the standards established under K.S.A. 75-3783, and amendments thereto, by the secretary of administration for the planning, design and construction of buildings and major repairs and improvements to buildings for state agencies, including applicable building and life safety codes and appropriate and practical energy conservation and efficiency standards.

(k) Each project for a state educational institution shall receive a final joint inspection by the division of facilities management and the board of regents. Each such project shall be officially accepted by the board of regents before such project is occupied or utilized by the state educational institution, unless otherwise agreed to in writing by the contractor and the board of regents as to the satisfactory completion of the work on part of the project that is to be occupied and utilized, including any corrections of the work thereon.

(l) (1) The board of regents shall issue monthly reports of progress on each project and shall advise and consult with the joint committee on state building construction regarding each project. Change orders and changes of plans for a project shall be authorized or approved by the board of regents.

(2) No change order or change of plans for a project involving either

cost increases of \$75,000 or more or involving a change in the proposed use of a project shall be authorized or approved by the board of regents without having first advised and consulted with the joint committee on state building construction.

(3) Change orders or changes in plans for a project involving a cost increase of less than \$75,000 and any change order involving a cost reduction, other than a change in the proposed use of the project, may be authorized or approved by the board of regents without prior consultation with the joint committee on state building construction. The board of regents shall report to the joint committee on state building construction all action relating to such change orders or changes in plans.

(4) If the board of regents determines that it is in the best interest of the state to authorize or approve a change order, a change in plans or a change in the proposed use of any project that the board of regents is required to first advise and consult with the joint committee on state building construction prior to issuing such approval and if no meeting of the joint committee is scheduled to take place within the next 10 business days, then the board of regents may use the procedure authorized by subsection (d) of K.S.A. 75-1264, and amendments thereto, in lieu of advising and consulting with the joint committee at a meeting. In any such case, the board of regents shall mail a summary description of the proposed change order, change in plans or change in the proposed use of any project to each member of the joint committee on state building construction and to the director of the legislative research department. If the board of regents provides notice and information to the members of the joint committee and to such director in the manner required and subject to the same provisions and conditions that apply to the secretary of administration under such statute, and if less than two members of the joint committee contact the director of the legislative research department within seven business days of the date the summary description was mailed and request a presentation and review of any such proposed change order, change in plans or change in use at a meeting of the joint committee, then the board of regents shall be deemed to have advised and consulted with the joint committee about such proposed change order, change in plans or change in proposed use and may authorize or approve such proposed change order, change in plans or change in proposed use.

(m) The provisions of this section shall apply to each project authorized by the board of regents under this act and shall not apply to any other capital improvement project of the board of regents or of any state educational institution that is specifically authorized by any other statute.

Sec. 38. K.S.A. 2013 Supp. 76-7,126 is hereby amended to read as follows: 76-7,126. As used in this act, unless the context expressly provides otherwise:

(a) “State educational institution” or “institution” means Fort Hays state university, Kansas state university of agriculture and applied science, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, Wichita state university and Kansas state university, college of technology at Salina.

(b) “Alternative project delivery” means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor team is selected based on a qualifications and best value approach.

(c) “Ancillary technical services” include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing air conditioning, ventilating, heating and other mechanical building systems and testing and consultant services that are determined by the institution to be required for the project.

(d) “Architectural services” means those services described by ~~subsection (c) of~~ *as the “practice of architecture,” as defined in K.S.A. 74-7003, and amendments thereto.*

(e) “Best value selection” means a selection based upon project cost, qualifications and other factors.

(f) (1) “Building construction” means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure.

(2) “Building construction” does not include highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(g) “Construction project services” means the process of planning, acquiring, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(h) “Construction management at-risk services” means the services provided by a firm which has entered into a contract with the institution to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may include, but are not limited to scheduling, value analysis, system analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, sub-

contractor bonding policy, budgeting and price guarantees and construction coordination.

(i) “Construction management at-risk contract” means a contract under which an institution acquires from a construction manager or general contractor a series of preconstruction services and an at-risk financial obligation to carry out construction under a specified cost agreement.

(j) “Construction manager or general contractor” means any individual, partnership, joint venture, corporation, or other legal entity who is a member of the integrated project team with the institution, design professional and other consultants that may be required for the project, who utilizes skill and knowledge of general contracting to perform preconstruction services and competitively procures and contracts with specialty contractors assuming the responsibility and the risk for construction delivery within a specified cost and schedule terms including a guaranteed maximum price.

(k) “Design criteria consultant” means a person, corporation, partnership, or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to K.S.A. 74-7003, and amendments thereto, and who is employed by contract to the institution to provide professional design and administrative services in connection with the preparation of the design criteria package.

(l) “Engineering services” means those services described by ~~subsection (i) of~~ *as the “practice of engineering,” as defined in K.S.A. 74-7003, and amendments thereto.*

(m) “Guaranteed maximum price” means the cost of the work as defined in the contract.

(n) “Non-state moneys” means any funds received by a state educational institution from any source other than the state of Kansas or any agency thereof.

(o) “Parking lot” means a designated area constructed on the ground surface for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act. A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

(p) “Preconstruction services” means a series of services including, but not limited to: Design review, scheduling, cost control, value engineering, constructability evaluation and preparation and coordination of bid packages.

(q) (1) “Construction project” or “project” means the process of designing, constructing, reconstructing, altering or renovating a building or other structure.

(2) “Construction project” or “project” does not mean the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.

(r) “Procurement committee” means the state educational institution

procurement committee established by K.S.A. 2013 Supp. 76-7,131, and amendments thereto.

(s) “State board” means the state board of regents.

Sec. 39. K.S.A. 74-7001, 74-7004, 74-7005, 74-7007, 74-7010, 74-7019, 74-7024, 74-7032, 74-7033, 74-7035, 74-7037, 74-7038, 74-7039, 74-7040, 74-7042 and 75-5802 and K.S.A 2013 Supp. 19-216c, 19-1401a, 44-918, 44-919, 72-6760d, 74-7003, 74-7009, 74-7013, 74-7021, 74-7022, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7034, 74-7036, 74-7041, 74-7046, 74-99b16, 75-1251, 75-37,142, 76-786 and 76-7,126 are hereby repealed.

Sec. 40. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 17, 2014.

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## CHAPTER 89

SENATE BILL No. 271  
(Amended by Chapter 115)

AN ACT concerning the Kansas medicaid fraud control act; relating to penalties and fines; amending K.S.A. 2013 Supp. 21-5926, 21-5927, 21-5933 and 75-7508 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 21-5926 is hereby amended to read as follows: 21-5926. As used in ~~K.S.A. 2013 Supp. 21-5925 through 21-5934 and K.S.A. 2013 Supp. 75-725 and 75-726, and amendments thereto~~ the *Kansas medicaid fraud control act*:

(a) “Aggregate amount of payments illegally claimed” means the greater of: (1) The actual pecuniary harm resulting from the offense; (2) the pecuniary harm that was intended to result from the offense; or (3) the intended pecuniary harm that would have been impossible or unlikely to occur, such as in a government sting operation or a fraud in which the claim exceeded the allowed value. The aggregate dollar amount of fraudulent claims submitted to the medicaid program shall constitute prima facie evidence of the amount of intended loss and is sufficient to establish the aggregate amount of payments illegally claimed, if not rebutted;

~~(a)~~(b) “attorney general” means the attorney general, employees of the attorney general or authorized representatives of the attorney general;

~~(b)~~(c) “benefit” means the receipt of money, goods, items, facilities, accommodations or anything of pecuniary value;

~~(c)~~(d) “claim” means an electronic, electronic impulse, facsimile, magnetic, oral, telephonic or written communication that is utilized to identify any goods, service, item, facility or accommodation as reimburs-

able to the ~~Kansas~~ medicaid program, or its fiscal agents, or which states income or expense and is or may be used to determine a rate of payment by the ~~Kansas~~ medicaid program, or its fiscal agent;

~~(d)~~(e) “fiscal agent” means any corporation, firm, individual, organization, partnership, professional association or other legal entity which, through a contractual relationship with the ~~department of social and rehabilitation services~~ *Kansas department of health and environment division of health care finance* and thereby, the state of Kansas, receives, processes and pays claims under the ~~Kansas~~ medicaid program;

~~(e)~~(f) “family member” means spouse, child, grandchild of any degree, parent, mother-in-law, father-in-law, grandparent of any degree, brother, brother-in-law, sister, sister-in-law, half-brother, half-sister, uncle, aunt, nephew or niece, whether biological, step or adoptive;

~~(f)~~(g) “medicaid program” means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended as administered by the ~~department of social and rehabilitation services~~ *Kansas department of health and environment division of health care finance*, or its fiscal agent, or any successor federal or state, or both, health insurance program or waiver granted thereunder;

~~(g)~~(h) “medically necessary” means for the purposes of ~~K.S.A. 2013 Supp. 21-5925 through 21-5934 and K.S.A. 2013 Supp. 75-725 and 75-726, and amendments thereto, the Kansas medicaid fraud control act~~ only, any goods, service, item, facility, or accommodation, that a reasonable and prudent provider under similar circumstances would believe is appropriate for diagnosing or treating a recipient’s condition, illness or injury;

(i) “pecuniary harm” means harm that is monetary or that otherwise is readily measurable in money, and does not include emotional distress, harm to reputation or other non-economic harm;

~~(h)~~(j) “person” means any agency, association, corporation, firm, limited liability company, limited liability partnership, natural person, organization, partnership or other legal entity, the agents, employees, independent contractors, and subcontractors, thereof, and the legal successors thereto, and any official, employee or agent of a state or federal agency having regulatory or administrative authority over the medicaid program;

~~(i)~~(k) “provider” means a person who has applied to participate in, who currently participates in, who has previously participated in, who attempts or has attempted to participate in the medicaid program, by providing or claiming to have provided goods, services, items, facilities or accommodations;

~~(j)~~(l) “recipient” means an individual, either real or fictitious, in whose behalf any person claimed or received any payment or payments from the medicaid program, or its fiscal agent, whether or not any such individual was eligible for benefits under the medicaid program;

~~(k)~~(m) “records” mean all written documents and electronic or mag-

netic data, including, but not limited to, medical records, X-rays, professional, financial or business records relating to the treatment or care of any recipient; goods, services, items, facilities or accommodations provided to any such recipient; rates paid for such goods, services, items, facilities or accommodations; and goods, services, items, facilities, or accommodations provided to nonmedicaid recipients to verify rates or amounts of goods, services, items, facilities or accommodations provided to medicaid recipients, as well as any records that the medicaid program, or its fiscal agents require providers to maintain;

~~(4)~~(n) “sign” means to affix a signature, directly or indirectly, by means of handwriting, typewriter, stamp, computer impulse or other means; and

~~(m)~~(o) “statement or representation” means an electronic, electronic impulse, facsimile, magnetic, oral, telephonic, or written communication that is utilized to identify any goods, service, item, facility or accommodation as reimbursable to the medicaid program, or its fiscal agent, or that states income or expense and is or may be used to determine a rate of payment by the medicaid program, or its fiscal agent.

Sec. 2. K.S.A. 2013 Supp. 21-5927 is hereby amended to read as follows: 21-5927. (a) ~~Making a false claim, statement or representation to the medicaid program is,~~ *Medicaid fraud is:*

(1) With intent to defraud, making, presenting, submitting, offering or causing to be made, presented, submitted or offered:

~~(1)~~(A) Any false or fraudulent claim for payment for any goods, service, item, facility accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

~~(2)~~(B) any false or fraudulent statement or representation for use in determining payments which may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

~~(3)~~(C) any false or fraudulent report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

~~(4)~~(D) any false or fraudulent statement or representation made in connection with any report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

~~(5)~~(E) any statement or representation for use by another in obtaining any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, knowing

the statement or representation to be false, in whole or in part, by commission or omission, whether or not the claim is allowed or allowable;

~~(6)~~(F) any claim for payment, for any goods, service, item, facility, or accommodation, which is not medically necessary in accordance with professionally recognized parameters or as otherwise required by law, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

~~(7)~~(G) any wholly or partially false or fraudulent book, record, document, data or instrument, which is required to be kept or which is kept as documentation for any goods, service, item, facility or accommodation or of any cost or expense claimed for reimbursement for any goods, service, item, facility or accommodation for which payment is, has been, or can be sought, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

~~(8)~~(H) any wholly or partially false or fraudulent book, record, document, data or instrument to any properly identified law enforcement officer, any properly identified employee or authorized representative of the attorney general, or to any properly identified employee or agent of the department of social and rehabilitation services, or its fiscal agent, in connection with any audit or investigation involving any claim for payment or rate of payment for any goods, service, item, facility or accommodation payable, in whole or in part, under the medicaid program; or

~~(9)~~(I) any false or fraudulent statement or representation made, with the intent to influence any acts or decision of any official, employee or agent of a state or federal agency having regulatory or administrative authority over the ~~Kansas~~ medicaid program; or

(2) *intentionally executing or attempting to execute a scheme or artifice to defraud the medicaid program or any contractor or subcontractor thereof.*

(b) ~~Making a false claim, statement or representation to the medicaid programs defined in:~~

~~(1) Subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6) or (a)(7), where the aggregate amount of payments illegally claimed is:~~

~~(A) \$25,000 or more is a severity level 7, nonperson felony;~~

~~(B) at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony; and~~

~~(C) less than \$1,000 is a class A misdemeanor; and~~

(1) *Except as provided in subsection (b)(2), for each individual count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2), where the aggregate amount of payments illegally claimed is:*

(A) *\$250,000 or more, medicaid fraud is a severity level 3, nonperson felony;*

(B) *at least \$100,000 but less than \$250,000, medicaid fraud is a severity level 5, nonperson felony;*

(C) at least \$25,000 but less than \$100,000, medicaid fraud is a severity level 7, nonperson felony;

(D) at least \$1,000 but less than \$25,000, medicaid fraud is a severity level 9, nonperson felony; and

(E) less than \$1,000, medicaid fraud is a class A nonperson misdemeanor.

(2) For each individual count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2):

(A) When great bodily harm results from such act, regardless of the aggregate amount of payments illegally claimed, medicaid fraud is a severity level 4, person felony, except as provided in subsection (b)(2)(B); and

(B) when death results from such act, regardless of the aggregate amount of payments illegally claimed, medicaid fraud is a severity level 1, person felony.

~~(2)(3)~~ Medicaid fraud as defined in subsection ~~(a)(8)~~ or ~~(a)(9)~~ (a)(1)(H) or (a)(1)(I) is a severity level 9, nonperson felony.

(c) In determining what is medically necessary pursuant to subsection ~~(a)(6)~~ (a)(1)(F), the attorney general may contract with or consult with qualified health care providers and other qualified individuals to identify professionally recognized parameters for the diagnosis or treatment of the recipient's condition, illness or injury.

(d) In sentencing for medicaid fraud, subsection (c)(3) of K.S.A. 2013 Supp. 21-6815, and amendments thereto, shall not apply and an act or omission by the defendant that resulted in any medicaid recipient receiving any service that was of lesser quality or amount than the service to which such recipient was entitled may be considered an aggravating factor in determining whether substantial and compelling reasons for departure exist pursuant to K.S.A. 2013 Supp. 21-6801 through 21-6824, and amendments thereto.

(e) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.

Sec. 3. K.S.A. 2013 Supp. 21-5933 is hereby amended to read as follows: 21-5933. (a) In addition to any other criminal penalties provided by law, any person convicted of a violation of ~~K.S.A. 2013 Supp. 21-5925 through 21-5934 and K.S.A. 2013 Supp. 75-725 and 75-726, and amendments thereto,~~ the Kansas medicaid fraud control act may be liable, in addition to any other criminal penalties provided by law, for all of the following:

(1) Payment of full restitution of the amount of the excess payments;

(2) payment of interest on the amount of any excess payments at the maximum legal rate in effect on the date the payment was made to the

person for the period from the date upon which payment was made, to the date upon which repayment is made; and

(3) payment of all reasonable expenses that have been necessarily incurred in the enforcement of ~~K.S.A. 2013 Supp. 21-5925 through 21-5934 and K.S.A. 2013 Supp. 75-725 and 75-726, and amendments thereto,~~ the *Kansas medicaid fraud control act* including, but not limited to, the costs of the investigation, litigation and attorney fees.

(b) *In addition to any other criminal penalties provided by law, any person convicted of a violation of the Kansas medicaid fraud control act shall, upon request of the attorney general at any time prior to sentencing, be subject to a fine of not less than \$1,000 and not more than \$11,000 for each violation of such act.*

~~(b)~~(c) All moneys recovered pursuant to subsection (a)(1) and (2), shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medicaid fraud reimbursement fund, which is hereby established in the state treasury. Moneys in the medicaid fraud reimbursement fund shall be divided and payments made from such fund to the federal government and affected state agencies for the refund of moneys falsely obtained from the federal and state governments.

~~(c)~~(d) All moneys recovered pursuant to subsection (a)(3) shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medicaid fraud prosecution revolving fund, which is hereby established in the state treasury. Moneys in the medicaid fraud prosecution revolving fund may be appropriated to the attorney general, or to any county or district attorney who has successfully prosecuted an action for a violation of ~~K.S.A. 2013 Supp. 21-5925 through 21-5934 and K.S.A. 2013 Supp. 75-725 and 75-726, and amendments thereto,~~ the *Kansas medicaid fraud control act* and been awarded such costs of prosecution, in order to defray the costs of the attorney general and any such county or district attorney in connection with their duties provided by ~~K.S.A. 2013 Supp. 21-5925 through 21-5934 and K.S.A. 2013 Supp. 75-725 and 75-726, and amendments thereto~~ the *Kansas medicaid fraud control act*. No moneys shall be paid into the medicaid fraud prosecution revolving fund pursuant to this section unless the attorney general or appropriate county or district attorney has commenced a prosecution pursuant to this section, and the court finds in its discretion that payment of attorney fees and investigative costs is appropriate under all the circumstances, and the attorney general, or county or district attorney has proven to the court that the expenses were reasonable and necessary to the investigation and prosecution of such case, and the court approves such expenses as being reasonable and necessary.

(e) *All moneys recovered pursuant to subsection (b) shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the false claims litigation revolving fund established by K.S.A. 2013 Supp. 75-7508, and amendments thereto.*

Sec. 4. K.S.A. 2013 Supp. 75-7508 is hereby amended to read as follows: 75-7508. (a) Proceeds recovered as a result of an action filed pursuant to ~~this~~ *the Kansas false claims act* shall be distributed in the following order:

(1) To refund moneys falsely obtained from the federal government, state government or political subdivision thereof pursuant to subsection (b); and

(2) to the state treasurer for deposit in the state general fund pursuant to subsection (c).

(b) A portion of the recovery equal to the amount of moneys falsely obtained from the federal government, state government, affected political subdivision thereof or state agencies, or a combination thereof, shall be remitted to the appropriate entity shown to be defrauded, subject to any further requirements established by federal or state law.

(c) That portion of any recovery remitted to the state treasurer pursuant to subsection (a) shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state general fund and, subject to any relevant guidelines of the federal department of health and human services' office of inspector general regarding repayment of fees or recoveries, shall credit 10% of such remittance to the false claims litigation revolving fund, which is hereby established in the state treasury. Moneys in the false claims litigation revolving fund may be expended by the attorney general for the purpose of hiring necessary staff and to defray the costs of investigating and litigating ongoing false claims cases and may be shared at the direction of the attorney general with the Kansas medicaid fraud ~~control unit~~ *and abuse division*, Kansas bureau of investigation or any county, city or private attorneys who may be utilized or contracted with pursuant to K.S.A. 2013 Supp. 75-7504, and amendments thereto, in carrying out the purposes of this act and any other operating expenses incurred in administering the Kansas false claims act. All expenditures from the false claims litigation revolving fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or the attorney general's designee.

Sec. 5. K.S.A. 2013 Supp. 21-5926, 21-5927, 21-5933 and 75-7508 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 17, 2014.

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CHAPTER 90

SENATE BILL No. 256  
(Amended by Chapter 139)

AN ACT concerning crimes, punishment and criminal procedure; relating to mistreatment of a dependent adult; mistreatment of an elder person; unlawful sexual relations; appearance bonds; Kansas racketeer influenced and corrupt organization act; surety regulation; costs charged in appeals; amending K.S.A. 22-2809a and 22-3612 and K.S.A. 2013 Supp. 21-5417, 21-5512, 21-5703, 21-5709, 21-5710, 21-6316, 21-6328 and 21-6329 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 21-5417 is hereby amended to read as follows: 21-5417. (a) Mistreatment of a dependent adult is knowingly committing one or more of the following acts:

(1) Infliction of physical injury, unreasonable confinement or unreasonable punishment upon a dependent adult;

(2) ~~taking unfair advantage of a dependent adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense taking the personal property or financial resources of a dependent adult for the benefit of the defendant or another person by taking control, title, use or management of the personal property or financial resources of a dependent adult through:~~

(A) *Undue influence, coercion, harassment, duress, deception, false representation, false pretense or without adequate consideration to such dependent adult;*

(B) *a violation of the Kansas power of attorney act, K.S.A. 58-650 et seq., and amendments thereto; or*

(C) *a violation of the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto; or*

(3) omission or deprivation of treatment, goods or services that are necessary to maintain physical or mental health of ~~a~~ *such* dependent adult.

(b) *Mistreatment of an elder person is knowingly committing one or more of the following acts:*

(1) *Taking the personal property or financial resources of an elder person for the benefit of the defendant or another person by taking control, title, use or management of the personal property or financial resources of an elder person through:*

(A) *Undue influence, coercion, harassment, duress, deception, false*

*representation, false pretense or without adequate consideration to such elder person;*

*(B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et seq., and amendments thereto; or*

*(C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto; or*

*(2) omission or deprivation of treatment, goods or services that are necessary to maintain physical or mental health of such elder person.*

~~(b)(c)~~ *Mistreatment of a dependent adult as defined in:*

*(1) Subsection (a)(1) is a severity level 5, person felony;*

*(2) subsection (a)(2) if the aggregate amount of the value of the personal property or financial resources is:*

*(A) \$1,000,000 or more is a severity level 2, person felony;*

*(B) at least \$250,000 but less than \$1,000,000 is a severity level 3, person felony;*

*(C) at least \$100,000 but less than \$250,000 is a severity level 4, person felony;*

*(D) at least \$25,000 but less than \$100,000 is a severity level 5, person felony;*

*(E) at least \$1,000 but less than \$25,000 is a severity level 7, person felony;*

*(F) less than \$1,000 is a class A person misdemeanor, except as provided in subsection (b)(2)(G); and*

*(G) less than \$1,000 and committed by a person who has, within five years immediately preceding commission of the crime, ~~the offender has~~ been convicted of mistreatment of a dependent adult two or more times is a severity level 7, person felony; and*

*(3) subsection (a)(3) is a severity level 8, person felony.*

~~(c)(d)~~ *Mistreatment of an elder person as defined in:*

*(1) Subsection (b)(1) if the aggregate amount of the value of the personal property or financial resources is:*

*(A) \$1,000,000 or more is a severity level 2, person felony;*

*(B) at least \$250,000 but less than \$1,000,000 is a severity level 3, person felony;*

*(C) at least \$100,000 but less than \$250,000 is a severity level 4, person felony;*

*(D) at least \$25,000 but less than \$100,000 is a severity level 5, person felony;*

*(E) at least \$5,000 but less than \$25,000 is a severity level 7, person felony;*

*(F) less than \$5,000 is a class A person misdemeanor, except as provided in subsection (d)(2)(G); and*

*(G) less than \$5,000 and committed by a person who has, within five years immediately preceding commission of the crime, been convicted of*

*mistreatment of an elder person two or more times is a severity level 7, person felony; and*

*(3) subsection (b)(2) is a severity level 8, person felony.*

*(e) It shall be an affirmative defense to any prosecution for mistreatment of a dependent adult or mistreatment of an elder person as described in subsections (a)(2) and (b)(1) that:*

*(1) The personal property or financial resources were given as a gift consistent with a pattern of gift giving to the person that existed before the dependent adult or elder person became vulnerable;*

*(2) the personal property or financial resources were given as a gift consistent with a pattern of gift giving to a class of individuals that existed before the dependent adult or elder person became vulnerable;*

*(3) the personal property or financial resources were conferred as a gift by the dependent adult or elder person to the benefit of a person or class of persons, and such gift was reasonable under the circumstances; or*

*(4) a court approved the transaction before the transaction occurred.*

*(f) No dependent adult or elder person is considered to be mistreated under subsection (a)(1), (a)(3) or (b)(2) for the sole reason that such dependent adult or elder person relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult or elder person is a member or adherent.*

~~(d)~~*(g) As used in this section:*

*(1) "Adequate consideration" means the personal property or financial resources were given to the person as payment for bona fide goods or services provided by such person and the payment was at a rate customary for similar goods or services in the community that the dependent adult or elder person resided in at the time of the transaction.*

*(2) "Dependent adult" means an individual 18 years of age or older who is unable to protect the individual's own interest. Such term shall include, but is not limited to, any:*

~~(1)~~*(A) Resident of an adult care home including, but not limited to, those facilities defined by K.S.A. 39-923, and amendments thereto;*

~~(2)~~*(B) adult cared for in a private residence;*

~~(3)~~*(C) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a medical care facility;*

~~(4)~~*(D) individual with intellectual disability or a developmental disability receiving services through a community facility for people with intellectual disability or residential facility licensed under K.S.A. 75-3307b, and amendments thereto;*

~~(5)~~*(E) individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or*

~~(6)~~(F) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a state psychiatric hospital or state institution for people with intellectual disability.

(3) “Elder person” means a person 70 years of age or older.

~~(e)~~(h) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any other offense in article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6418, and amendments thereto.

Sec. 2. K.S.A. 2013 Supp. 21-5512 is hereby amended to read as follows: 21-5512. (a) Unlawful sexual relations is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if:

(1) The offender is an employee or volunteer of the department of corrections, or the employee or volunteer of a contractor who is under contract to provide services for a correctional institution, and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate;

(2) the offender is a parole officer, volunteer for the department of corrections or the employee or volunteer of a contractor who is under contract to provide supervision services for persons on parole, conditional release or postrelease supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is an inmate who has been released on parole, conditional release or postrelease supervision and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is an inmate who has been released and is currently on parole, conditional release or postrelease supervision;

(3) the offender is a law enforcement officer, an employee of a jail, or the employee of a contractor who is under contract to provide services in a jail and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such jail;

(4) the offender is a law enforcement officer, an employee of a juvenile detention facility or sanctions house, or the employee of a contractor who is under contract to provide services in such facility or sanctions house and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility or sanctions house;

(5) the offender is an employee of the ~~juvenile justice authority~~ *department of corrections* or the employee of a contractor who is under contract to provide services in a juvenile correctional facility and the per-

son with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is confined to such facility;

(6) the offender is an employee of the ~~juvenile justice authority~~ *department of corrections* or the employee of a contractor who is under contract to provide direct supervision and offender control services to the ~~juvenile justice authority~~ *department of corrections* and:

(A) The person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been:

(i) Released on conditional release from a juvenile correctional facility under the supervision and control of the ~~juvenile justice authority~~ *department of corrections* or juvenile community supervision agency; or

(ii) placed in the custody of the ~~juvenile justice authority~~ *department of corrections* under the supervision and control of the ~~juvenile justice authority~~ *department of corrections* or juvenile community supervision agency; and

(B) the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under supervision;

(7) the offender is an employee of the ~~department of social and rehabilitation services~~ *Kansas department for aging and disability services* or the *Kansas department for children and families* or the employee of a contractor who is under contract to provide services in a ~~social and rehabilitation services~~ *an aging and disability or children and families* institution or to the ~~department of social and rehabilitation services~~ *Kansas department for aging and disability services* or the *Kansas department for children and families* and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a patient in such institution or in the custody of the secretary of ~~social and rehabilitation services~~ *for aging and disability services* or the *secretary for children and families*;

(8) the offender is a worker, volunteer or other person in a position of authority in a family foster home licensed by the department of health and environment and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a foster child placed in the care of such family foster home;

(9) the offender is a teacher or other person in a position of authority and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a student enrolled at the school where the offender is employed. If the offender is the parent of the student, the provisions

of subsection (b) of K.S.A. 2013 Supp. 21-5604, and amendments thereto, shall apply, not this subsection;

(10) the offender is a court services officer or the employee of a contractor who is under contract to provide supervision services for persons under court services supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been placed on probation under the supervision and control of court services and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of court services;~~or~~

(11) the offender is a community correctional services officer or the employee of a contractor who is under contract to provide supervision services for persons under community corrections supervision and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who has been assigned to a community correctional services program under the supervision and control of community corrections and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of community corrections; *or*

*(12) the offender is a surety or an employee of a surety and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is the subject of a surety or bail bond agreement with such surety and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is the subject of a surety or bail bond agreement with such surety.*

(b) Unlawful sexual relations as defined in:

(1) Subsection (a)(5) is a severity level 4, person felony; and

(2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), (a)(10)~~or~~, (a)(11) *or* (a)(12) is a severity level 5, person felony.

(c) (1) If an offender violates the provisions of this section by engaging in consensual sexual intercourse which would constitute a violation of K.S.A. 2013 Supp. 21-5503, and amendments thereto, the provisions of K.S.A. 2013 Supp. 21-5503, and amendments thereto, shall apply, not this section.

(2) If an offender violates the provisions of this section by engaging in consensual sexual intercourse which would constitute a violation of subsection (b)(1) of K.S.A. 2013 Supp. 21-5506, and amendments thereto, the provisions of subsection (b)(1) of K.S.A. 2013 Supp. 21-5506, and amendments thereto, shall apply, not this section.

(3) If an offender violates the provisions of this section by engaging in sodomy which would constitute a violation of subsection (a)(3), (a)(4) or (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto, the pro-

visions of subsection (a)(3), (a)(4) or (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto, shall apply, not this section.

(4) If an offender violates the provisions of this section by engaging in lewd fondling or touching which would constitute a violation of subsection (b)(2) of K.S.A. 2013 Supp. 21-5506, and amendments thereto, the provisions of subsection (b)(2) of K.S.A. 2013 Supp. 21-5506, and amendments thereto, shall apply, not this section.

(d) As used in this section:

(1) “Correctional institution” means the same as in K.S.A. 75-5202, and amendments thereto;

(2) “inmate” means the same as in K.S.A. 75-5202, and amendments thereto;

(3) “parole officer” means the same as in K.S.A. 75-5202, and amendments thereto;

(4) “postrelease supervision” means the same as in K.S.A. 2013 Supp. 21-6803, and amendments thereto;

(5) “juvenile detention facility” means the same as in K.S.A. 2013 Supp. 38-2302, and amendments thereto;

(6) “juvenile correctional facility” means the same as in K.S.A. 2013 Supp. 38-2302, and amendments thereto;

(7) “sanctions house” means the same as in K.S.A. 2013 Supp. 38-2302, and amendments thereto;

(8) “institution” means the same as in K.S.A. 76-12a01, and amendments thereto;

(9) “teacher” means and includes teachers, coaches, supervisors, principals, superintendents and any other professional employee in any public or private school offering any of grades kindergarten through 12;

(10) “community corrections” means the entity responsible for supervising adults and juvenile offenders for confinement, detention, care or treatment, subject to conditions imposed by the court pursuant to the community corrections act, K.S.A. 75-5290, and amendments thereto, and the revised Kansas juvenile justice code, K.S.A. 2013 Supp. 38-2301 et seq., and amendments thereto;

(11) “court services” means the entity appointed by the district court that is responsible for supervising adults and juveniles placed on probation and misdemeanants placed on parole by district courts of this state; ~~and~~

(12) “juvenile community supervision agency” means an entity that receives grants for the purpose of providing direct supervision to juveniles in the custody of the ~~juvenile justice authority~~ *department of corrections*; *and*

(13) “surety” means the same as in K.S.A. 22-2809a, and amendments thereto.

Sec. 3. K.S.A. 2013 Supp. 21-5703 is hereby amended to read as

follows: 21-5703. (a) It shall be unlawful for any person to manufacture any controlled substance or controlled substance analog.

(b) Violation or attempted violation of subsection (a) is a:

(1) Drug severity level 2 felony, except as provided in subsections (b)(2) and (b)(3);

(2) drug severity level 1 felony if:

(A) The controlled substance is not methamphetamine, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto, or an analog thereof; and

(B) the offender has a prior conviction for unlawful manufacturing of a controlled substance under this section, K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially similar offense from another jurisdiction and the substance was not methamphetamine, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto, or an analog thereof, in any such prior conviction; and

(3) drug severity level 1 felony if the controlled substance is methamphetamine, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto, or an analog thereof.

(c) The provisions of subsection (d) of K.S.A. 2013 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to unlawfully manufacture any controlled substance or controlled substance analog pursuant to this section.

(d) For persons arrested and charged under this section, bail shall be at least \$50,000 cash or surety, *and such person shall not be released upon the person's own recognizance pursuant to K.S.A. 22-2802, and amendments thereto*, unless the court determines, on the record, that the defendant is not likely to re-offend, the court imposes pretrial supervision, or the defendant agrees to participate in a licensed or certified drug treatment program.

(e) The sentence of a person who violates this section shall not be subject to statutory provisions for suspended sentence, community service work or probation.

(f) The sentence of a person who violates this section, K.S.A. 65-4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its transfer, shall not be reduced because these sections prohibit conduct identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2013 Supp. 21-5705, and amendments thereto.

Sec. 4. K.S.A. 2013 Supp. 21-5709 is hereby amended to read as follows: 21-5709. (a) It shall be unlawful for any person to possess ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolam-

ine, or their salts, isomers or salts of isomers with an intent to use the product to manufacture a controlled substance.

(b) It shall be unlawful for any person to use or possess with intent to use any drug paraphernalia to:

(1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or distribute a controlled substance; or

(2) store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body.

(c) It shall be unlawful for any person to use or possess with intent to use anhydrous ammonia or pressurized ammonia in a container not approved for that chemical by the Kansas department of agriculture.

(d) It shall be unlawful for any person to purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of pseudoephedrine base or ephedrine base in any single transaction or any compound, mixture or preparation containing more than nine grams of pseudoephedrine base or ephedrine base within any 30-day period.

(e) (1) Violation of subsection (a) is a drug severity level 3 felony;

(2) violation of subsection (b)(1) is a:

(A) Drug severity level 5 felony, except as provided in subsection (e)(2)(B); and

(B) class A nonperson misdemeanor if the drug paraphernalia was used to cultivate fewer than five marijuana plants;

(3) violation of subsection (b)(2) is a class A nonperson misdemeanor;

(4) violation of subsection (c) is a drug severity level 5 felony; and

(5) violation of subsection (d) is a class A nonperson misdemeanor.

(f) For persons arrested and charged under subsection (a) or (c), bail shall be at least \$50,000 cash or surety, *and such person shall not be released upon the person's own recognizance pursuant to K.S.A. 22-2802, and amendments thereto*, unless the court determines, on the record, that the defendant is not likely to reoffend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

Sec. 5. K.S.A. 2013 Supp. 21-5710 is hereby amended to read as follows: 21-5710. (a) It shall be unlawful for any person to advertise, market, label, distribute or possess with the intent to distribute:

(1) Any product containing ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine or their salts, isomers or salts of isomers if the person knows or reasonably should know that the purchaser will use the product to manufacture a controlled substance or controlled substance analog; or

(2) any product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers for indication of

stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved pursuant to the pertinent federal over-the-counter drug final monograph or tentative final monograph or approved new drug application.

(b) It shall be unlawful for any person to distribute, possess with the intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know that it will be used to manufacture or distribute a controlled substance or controlled substance analog in violation of K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto.

(c) It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used as such in violation of K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto, except subsection (b) of K.S.A. 2013 Supp. 21-5706, and amendments thereto.

(d) It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used as such in violation of subsection (b) of K.S.A. 2013 Supp. 21-5706, and amendments thereto.

(e) (1) Violation of subsection (a) is a drug severity level 3 felony;

(2) violation of subsection (b) is a:

(A) Drug severity level 5 felony, except as provided in subsection (e)(2)(B); and

(B) drug severity level 4 felony if the trier of fact makes a finding that the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property;

(3) violation of subsection (c) is a:

(A) Nondrug severity level 9, nonperson felony, except as provided in subsection (e)(3)(B); and

(B) drug severity level 5 felony if the trier of fact makes a finding that the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property; and

(4) violation of subsection (d) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (e)(4)(B); and

(B) nondrug severity level 9, nonperson felony if the trier of fact makes a finding that the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property.

(f) For persons arrested and charged under subsection (a), bail shall be at least \$50,000 cash or surety, *and such person shall not be released upon the person's own recognizance pursuant to K.S.A. 22-2802, and amendments thereto*, unless the court determines, on the record, that the

defendant is not likely to re-offend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

(g) As used in this section, “or under circumstances where one reasonably should know” that an item will be used in violation of this section, shall include, but not be limited to, the following:

- (1) Actual knowledge from prior experience or statements by customers;
- (2) inappropriate or impractical design for alleged legitimate use;
- (3) receipt of packaging material, advertising information or other manufacturer supplied information regarding the item’s use as drug paraphernalia; or
- (4) receipt of a written warning from a law enforcement or prosecutorial agency having jurisdiction that the item has been previously determined to have been designed specifically for use as drug paraphernalia.

Sec. 6. K.S.A. 2013 Supp. 21-6316 is hereby amended to read as follows: 21-6316. When a criminal street gang member is arrested for a person felony, bail shall be at least \$50,000 cash or surety, *and such person shall not be released upon the person’s own recognizance pursuant to K.S.A. 22-2802, and amendments thereto*, unless the court determines on the record that the defendant is not likely to reoffend, an appropriate intensive pre-trial supervision program is available and the defendant agrees to comply with the mandate of such pre-trial supervision.

Sec. 7. K.S.A. 2013 Supp. 21-6328 is hereby amended to read as follows: 21-6328. As used in the Kansas racketeer influenced and corrupt organization act:

(a) “Beneficial interest” means:

- (1) The interest of a person as a beneficiary under any trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or
- (2) the interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

The term “beneficial interest” does not include the interest of a stock holder in a corporation or the interest of a partner in either a general partnership or a limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

(b) “Covered person” means any person who:

- (1) Is a criminal street gang member or criminal street gang associate, as defined in K.S.A. 2013 Supp. 21-6313, and amendments thereto;
- (2) has engaged in or is engaging in any conduct prohibited by K.S.A. 2013 Supp. 21-5426, and amendments thereto, human trafficking or aggravated human trafficking; or
- (3) has engaged in or is engaging in any conduct prohibited by K.S.A.

2013 Supp. 21-5703, and amendments thereto, unlawful manufacturing of controlled substances, or K.S.A. 2013 Supp. 21-5705, and amendments thereto, unlawful cultivation or distribution of controlled substances.

(c) “Documentary material” means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(d) “Enterprise” means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal street gang, as defined in K.S.A. 2013 Supp. 21-6313, and amendments thereto, constitutes an enterprise.

(e) “Pattern of racketeering activity” means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within 5 years, excluding any period of imprisonment, after a prior incident of racketeering activity.

(f) “Racketeering activity” means to commit, attempt to commit, conspire to commit or to solicit, coerce or intimidate another person to commit:

(1) Any felony or misdemeanor violation of: The felony provisions of K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas money transmitter act; article 12a of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, Kansas uniform securities act; K.S.A. 2013 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 2013 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 2013 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 2013 Supp. 21-5408, and amendments thereto, kidnapping or aggravated kidnapping; K.S.A. 2013 Supp. 21-5412, and amendments thereto; K.S.A. 2013 Supp. 21-5413, and amendments thereto; K.S.A. 2013 Supp. 21-5414, and amendments thereto, domestic battery; K.S.A. 2013 Supp. 21-5415, and amendments thereto, criminal threat or aggravated criminal threat; K.S.A. 2013 Supp. 21-5420, and amendments thereto, robbery or aggravated robbery; K.S.A. 2013 Supp. 21-5421, and amendments thereto, terrorism; K.S.A. 2013 Supp. 21-5422, and amendments thereto, illegal use of weapons of mass destruction; K.S.A. 2013 Supp. 21-5423, and amendments thereto; K.S.A. 2013 Supp. 21-5426, and amendments thereto, human trafficking or aggravated hu-

man trafficking; K.S.A. 2013 Supp. 21-5428, and amendments thereto, blackmail; K.S.A. 2013 Supp. 21-5510, and amendments thereto, sexual exploitation of a child; K.S.A. 2013 Supp. 21-5601, and amendments thereto, endangering a child or aggravated endangering a child; K.S.A. 2013 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A. 2013 Supp. 21-5603, and amendments thereto, contributing to a child's misconduct or deprivation; subsection (b) of K.S.A. 2013 Supp. 21-5607, and amendments thereto, furnishing alcoholic beverages to a minor for illicit purposes; article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, crimes involving controlled substances; K.S.A. 2013 Supp. 21-5801, and amendments thereto, theft; K.S.A. 2013 Supp. 21-5803, and amendments thereto, criminal deprivation of property; K.S.A. 2013 Supp. 21-5805, and amendments thereto; K.S.A. 2013 Supp. 21-5807, and amendments thereto, burglary or aggravated burglary; K.S.A. 2013 Supp. 21-5812, and amendments thereto, arson or aggravated arson; K.S.A. 2013 Supp. 21-5813, and amendments thereto, criminal damage to property; K.S.A. 2013 Supp. 21-5814, and amendments thereto, criminal use of an explosive; K.S.A. 2013 Supp. 21-5818, and amendments thereto, tampering with a pipeline; K.S.A. 2013 Supp. 21-5821, and amendments thereto, giving a worthless check; K.S.A. 2013 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2013 Supp. 21-5824, and amendments thereto, making false information; K.S.A. 2013 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2013 Supp. 21-5826, and amendments thereto, destroying written instrument; K.S.A. 2013 Supp. 21-5828, and amendments thereto, criminal use of a financial card; K.S.A. 2013 Supp. 21-5838, and amendments thereto, conducting a pyramid promotional scheme; K.S.A. 2013 Supp. 21-5839, and amendments thereto; K.S.A. 2013 Supp. 21-5903, and amendments thereto, perjury; K.S.A. 2013 Supp. 21-5904, and amendments thereto, interference with law enforcement; K.S.A. 2013 Supp. 21-5905, and amendments thereto, interference with the judicial process; K.S.A. 2013 Supp. 21-5909, and amendments thereto, intimidation of a witness or victim or aggravated intimidation of a witness or victim; K.S.A. 2013 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2013 Supp. 21-5913, and amendments thereto, obstructing apprehension or prosecution; K.S.A. 2013 Supp. 21-5918, and amendments thereto; K.S.A. 2013 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2013 Supp. 21-6002, and amendments thereto, official misconduct; K.S.A. 2013 Supp. 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2013 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon; K.S.A. 2013 Supp. 21-6303, and amendments thereto, criminal distribution of firearms to a felon; K.S.A. 2013 Supp. 21-6304, and amendments thereto, criminal possession of a firearm by a convicted felon; K.S.A. 2013 Supp. 21-6305, and amendments thereto, aggravated weapons violation by a convicted felon; K.S.A. 2013 Supp. 21-6306, and amendments

thereto, defacing identification marks of a firearm; K.S.A. 2013 Supp. 21-6308, and amendments thereto, criminal discharge of a firearm; K.S.A. 2013 Supp. 21-6310, and amendments thereto, unlawful endangerment; K.S.A. 2013 Supp. 21-6312, and amendments thereto; K.S.A. 2013 Supp. 21-6313 through 21-6316, and amendments thereto; K.S.A. 2013 Supp. 21-6401, and amendments thereto; K.S.A. 2013 Supp. 21-6404, and amendments thereto, gambling; K.S.A. 2013 Supp. 21-6405, and amendments thereto, illegal bingo operation; K.S.A. 2013 Supp. 21-6406, and amendments thereto, commercial gambling; K.S.A. 2013 Supp. 21-6407, and amendments thereto, dealing in gambling devices; K.S.A. 2013 Supp. 21-6408, and amendments thereto; K.S.A. 2013 Supp. 21-6409, and amendments thereto, installing communication facilities for gamblers; subsections (a) or (b) of K.S.A. 2013 Supp. 21-6414, and amendments thereto, unlawful conduct of dog fighting or unlawful possession of dog fighting paraphernalia; subsections (a) or (b) of K.S.A. 2013 Supp. 21-6417, and amendments thereto, unlawful conduct of cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A. 2013 Supp. 21-6419, and amendments thereto, ~~prostitution~~ *selling sexual relations*; K.S.A. 2013 Supp. 21-6420, and amendments thereto, promoting ~~prostitution~~ *the sale of sexual relations*; K.S.A. 2013 Supp. 21-6422, and amendments thereto, *commercial sexual exploitation of a child*; K.S.A. 2013 Supp. 21-6501, and amendments thereto, extortion; K.S.A. 2013 Supp. 21-6502, and amendments thereto, debt adjusting; K.S.A. 2013 Supp. 21-6504, and amendments thereto, equity skimming; K.S.A. 2013 Supp. 21-6506, and amendments thereto, commercial bribery; K.S.A. 2013 Supp. 21-6507, and amendments thereto, sports bribery; K.S.A. 2013 Supp. 21-6508, and amendments thereto, tampering with a sports contest; K.S.A. 39-720, and amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and amendments thereto, workers' compensation act; K.S.A. 65-1657, and amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441, and amendments thereto, hazardous waste; K.S.A. 65-4167, and amendments thereto, trafficking in counterfeit drugs; article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas parimutuel racing act; or K.S.A. 79-3321, and amendments thereto, Kansas cigarette and tobacco products act; or

(2) any conduct defined as "racketeering activity" under 18 U.S.C. § 1961(1).

(g) "Real property" means any real property or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(h) "Trustee" means:

(1) Any person acting as trustee pursuant to a trust in which the trustee holds legal or record title to real property;

(2) any person who holds legal or record title to real property in which any other person has a beneficial interest; or

(3) any successor trustee or trustees to any or all of the foregoing persons.

The term “trustee” does not include any person appointed or acting as a personal representative as defined in K.S.A. 59-102, and amendments thereto, or appointed or acting as a trustee of any testamentary trust or as a trustee of any indenture of trust under which any bonds have been or are to be issued.

(i) “Unlawful debt” means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(1) In violation of any of the following provisions of law: Article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas parimutuel racing act; K.S.A. 2013 Supp. 21-6404, and amendments thereto, gambling; K.S.A. 2013 Supp. 21-6405, and amendments thereto, illegal bingo operation; K.S.A. 2013 Supp. 21-6406, and amendments thereto, commercial gambling; K.S.A. 2013 Supp. 21-6407, and amendments thereto, dealing in gambling devices; K.S.A. 2013 Supp. 21-6408, and amendments thereto; or K.S.A. 2013 Supp. 21-6409, and amendments thereto, installing communication facilities for gamblers; or

(2) in gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

Sec. 8. K.S.A. 2013 Supp. 21-6329 is hereby amended to read as follows: 21-6329. (a) *Except as provided in subsection (b)*, it is unlawful for any covered person:

(1) Who has ~~with criminal intent~~ received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use *recklessly* or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise;

(2) through a pattern of racketeering activity or through the collection of an unlawful debt, to *recklessly* acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property; or

(3) employed by, or associated with, any enterprise to *recklessly* conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.

(b) *It is not unlawful for a covered person to violate subsection (a) through the collection of an unlawful debt if such person was not a participant in a violation described in subsection (i) of K.S.A. 2013 Supp. 21-6328, and amendments thereto, which created such unlawful debt.*

~~(b)~~(c) Violation of this section or conspiracy to commit a violation of this section is a severity level 2, person felony.

~~(e)~~(d) The provisions of subsection (d) of K.S.A. 2013 Supp. 21-5302, and amendments thereto, shall not apply to conspiracy to commit a violation of this section.

~~(d)~~(e) (1) Notwithstanding the provisions of K.S.A. 2013 Supp. 21-6611, and amendments thereto, any person convicted of engaging in conduct in violation of this section, through which the person derived pecuniary value, or by which the person caused personal injury or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is the greater, plus court costs and the costs of investigation and prosecution, reasonably incurred.

(2) The court shall hold a hearing to determine the amount of the fine authorized by this subsection.

(3) For the purposes of this subsection, “pecuniary value” means:

(A) Anything of value in the form of money, a negotiable instrument, or a commercial interest or anything else the primary significance of which is economic advantage; and

(B) any other property or service that has a value in excess of \$100.

~~(e)~~(f) For persons arrested and charged under this section, bail shall be at least \$50,000 cash or surety, *and such person shall not be released upon the person’s own recognizance pursuant to K.S.A. 22-2802, and amendments thereto*, unless the court determines on the record that the defendant is not likely to re-offend, an appropriate intensive pretrial supervision program is available and the defendant agrees to comply with the mandate of such pretrial supervision. ~~Notwithstanding any other provision of law, any person arrested and charged under this section shall not be released upon the person’s own recognizance pursuant to K.S.A. 22-2802, and amendments thereto.~~

Sec. 9. K.S.A. 22-2809a is hereby amended to read as follows: 22-2809a. (a) As used in this section: (1) “Surety” means a person or commercial surety, other than a defendant in a criminal proceeding, that guarantees the appearance of a defendant in a criminal proceeding, by executing an appearance bond;

(2) “agent of a surety” means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond agreement.

(b) Any surety or agent of a surety, commonly referred to as a bounty hunter, who intends to apprehend any person in this state pursuant to K.S.A. 22-2809, and amendments thereto, or under similar authority from any other state, shall inform law enforcement authorities in the city or county in which such surety or agent of a surety intends such apprehen-

sion, before attempting such apprehension. The surety or agent of a surety shall present to the local law enforcement authorities a certified copy of the bond, a valid government-issued photo identification, written appointment of agency, if not the actual surety, and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the surety or agent.

(c) No person who, ~~within the past 10 years,~~ has been convicted, in this or any other jurisdiction, of a ~~person~~ felony, ~~may~~ shall act as a surety or as an agent of a surety.

(d) *An out-of-state surety or agent of a surety who intends to apprehend any person in this state pursuant to K.S.A. 22-2809, and amendments thereto, or under similar authority from any other state, shall contract with an individual that has been authorized by any court in this state to act as a surety or agent of a surety, before attempting such apprehension, and be accompanied by such individual during such apprehension.*

(e) Violation of this section is a class A nonperson misdemeanor for the first conviction of a violation and a severity level 9, nonperson felony upon a second or subsequent conviction of a violation.

Sec. 10. K.S.A. 22-3612 is hereby amended to read as follows: 22-3612. (a) In representing the interests of the state in appeals from criminal actions in the district courts of this state to the supreme court or court of appeals or in other post-conviction actions arising from criminal prosecutions, the attorney general shall invoke the assistance of the county or district attorney of the county in which the action originally commenced. The reasonable costs of such ~~assistance~~ representation shall be allowed and paid by the board of county commissioners from the county general fund for any services rendered by such county's county or district attorney pursuant to this section or by the attorney general pursuant to ~~this section~~ an agreement under subsection (b).

(b) *The attorney general may publish a schedule of such costs to be charged by the office of attorney general for services rendered by the attorney general, not to exceed the hourly rate provided in K.S.A. 22-4507, and amendments thereto. The attorney general may enter into agreements with any county or district attorney for the payment of such costs and any such agreement shall supersede, in whole or in part as such agreement may provide, the schedule of costs published pursuant to this section.*

(c) *All moneys paid to the attorney general pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the criminal appeals cost fund, which is hereby created. Moneys in the criminal appeals cost fund may be expended by*

*the attorney general for the purpose of representing the interests of the state in criminal appeals and post-conviction proceedings. All expenditures from the criminal appeals cost fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or the attorney general's designee.*

Sec. 11. K.S.A. 22-2809a and 22-3612 and K.S.A. 2013 Supp. 21-5417, 21-5512, 21-5703, 21-5709, 21-5710, 21-6316, 21-6328 and 21-6329 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 17, 2014.

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CHAPTER 91

SENATE BILL No. 423\*

TO

SEC.

Administration, department of ..... 1

AN ACT concerning real property; authorizing the secretary of administration to sell the Landon state office building and the Eisenhower state office building; authorizing the secretary of administration to exercise the option to purchase and sell the Van Buren project and the Curtis state office building and parking facility; authorizing the secretary of administration to demolish the Docking state office building and to reconstruct, relocate and renovate the power plant; making and concerning appropriations for the fiscal year ending June 30, 2015, for the department of administration.

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

Section 1. (a) The secretary of administration is hereby authorized and empowered, for and on behalf of the state of Kansas, to sell and convey all of the rights, title and interest in the following tracts of real estate located in Shawnee county, Kansas:

TRACT 1: The South 7 feet of Lot 160, and all Lots 162, 164, 166 and 168, on Harrison Street; AND Lots 26, 28, 30, 32, 34 and 36 on 6th Avenue East, along with vacated alley lying South of Lot 168 on Harrison Street, and North of Lots 26, 28, 30, 32, 34 and 36 on 6th Avenue East, all in the Original Town, City of Topeka, Shawnee County, Kansas.

TRACT 2: Lots 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45 and 47, on 6th Avenue East; AND Lots 193, 195, 197, 199, 201, 203, 205, 207, 209, 211, 213, and 215 on Van Buren Street; AND Lots 194, 196, 198, 200, 202, 204, and 206, on Harrison Street, along with all of the vacated alleys in the block bounded by 6th Avenue on the North, Van Buren Street on the East, Seventh Avenue on the South, and Harrison Street on the West, all

in the Original Town, City of Topeka, Shawnee County, Kansas, except the South 1.5 feet of said Lot 206.

TRACT 3: Lots 217, 219, 221, 223, 225, 227, 229, 231 and 233 on Van Buren Street; AND Lots 218, 220, 222, 224, 226, 228, 230, 232 and 234 on Harrison Street, along with the vacated alley lying West of Lots 217 through 233 (odd) on Van Buren Street and East of Lots 218 through 234 (even) on Harrison Street; AND Lots 236, 238 and 240 on Harrison Street, all in the Original Town, City of Topeka, Shawnee County, Kansas.

(b) No sale or conveyance of the real property described in subsection (a) shall be authorized or approved by the secretary of administration without having first advised and consulted with and approved by the joint committee on state building construction.

(c) Prior to the sale or conveyance of the real property described in subsection (a), the state finance council shall approve the sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(d) (1) When the sale is made, the proceeds thereof shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Eisenhower building escrow fund which is hereby created in the state treasury. Moneys in the Eisenhower building escrow fund shall be used only to: (A) Call and redeem outstanding bonds associated with any of the property described in subsection (a) in accordance with their terms on or after their first optional redemption date as may be permitted in accordance with the applicable bond covenants, along with any other legally available revenues as may be necessary; and (B) pay the expenses of such sale and any costs of appraisal.

(2) The Kansas development finance authority shall be responsible for certifying to the secretary of administration and the state treasurer that the outstanding bonds associated with any of the property described in subsection (a) have been legally defeased in full. The president of the Kansas development finance authority shall transmit a copy of such certification to the director of legislative research.

(3) Upon receiving such certification, except as provided in subsection (f), the state treasurer shall transfer any remaining moneys in the Eisenhower building escrow fund as provided for the proceeds from the sale of surplus real estate pursuant to subsection (f) of K.S.A. 2013 Supp. 75-6609, and amendments thereto.

(4) Expenditures from the Eisenhower building escrow fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of administration.

(e) In the event that the secretary of administration determines that the legal description of the parcel described by this section is incorrect, the secretary of administration may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general.

(f) The director of accounts and reports, in consultation with the secretary of administration, shall transfer any remaining moneys pursuant to subsection (d)(3) from such sale proceeds, not exceeding \$15,000,000 in total sum combined with the sale proceeds from section 2, and amendments thereto, to the docking state office building rehab, repair and razing fund of the department of administration. The secretary of administration shall determine and certify the amount of moneys that are transferred under this subsection. The secretary shall transmit a copy of such certification to the director of legislative research.

Sec. 2. (a) The secretary of administration is hereby authorized and empowered, for and on behalf of the state of Kansas, to sell and convey all of the rights, title and interest in the following tract of real estate located in Shawnee county, Kansas:

A tract of land in the Southeast Quarter of Section 31, Township 11 South, Range 16 East of the 6th Principal Meridian in the City of Topeka, County of Shawnee, State of Kansas, and more particularly described as follows: All of Lots Nos. 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, and 312 on Jackson Street in original town and the Northerly one-half of alley lying Southerly of and adjacent to Lot 312 as vacated by Ordinance No. 3009 dated October 6, 1909, and pursuant to Ord. 3021 dated Nov. 19, 1909, and A.T.&S.F. Cont. No. 25487 filed with Register of Deeds, Shawnee County, March 15, 1982, at 1:48 p.m. in Book 2160, commencing on page 172. Said lots and portion of vacated alley containing 46,800 square feet of land, more or less.

(b) No sale or conveyance of the real property described in subsection (a) shall be authorized or approved by the secretary of administration without having first advised and consulted with and approved by the joint committee on state building construction.

(c) Prior to the sale or conveyance of the real property described in subsection (a), the state finance council shall approve the sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(d) When the sale is made, the proceeds thereof shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, except as provided in subsection (f), the state treasurer shall deposit the entire

amount in the state treasury and credit as provided for the proceeds from the sale of surplus real estate pursuant to subsection (f) of K.S.A. 2013 Supp. 75-6609, and amendments thereto.

(e) In the event that the secretary of administration determines that the legal description of the parcel described by this section is incorrect, the secretary of administration may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general.

(f) The director of accounts and reports, in consultation with the secretary of administration, shall transfer any moneys pursuant to subsection (d) from such sale proceeds, not exceeding \$15,000,000 in total sum combined with the sale proceeds from section 1, and amendments thereto, to the docking state office building rehab, repair and razing fund of the department of administration. The secretary of administration shall determine and certify the amount of moneys that are transferred under this subsection. The secretary shall transmit a copy of such certification to the director of legislative research.

Sec. 3. (a) The secretary of administration is hereby authorized and empowered, for and on behalf of the state of Kansas, to act as the tenant for the state of Kansas - Kansas department for children and families, known as the department of social and rehabilitation services in the lease with option to purchase agreement dated January 1, 1999, to exercise such tenant's option to purchase the Van Buren project and the land pursuant to such lease with option to purchase agreement.

(b) No option to purchase, sale or conveyance of the real property described in subsection (a) shall be authorized or approved by the secretary of administration without having first advised and consulted with and approved by the joint committee on state building construction.

(c) Prior to the exercising of the option to purchase and the sale or conveyance of the real property described in subsection (a), the state finance council shall approve the option to purchase and sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(d) When such option has been exercised, the secretary of administration is hereby authorized and empowered, for and on behalf of the state of Kansas, to sell and convey all of the rights, title and interest in the Van Buren project and land subject to the terms and conditions of the lease and any outstanding bonds.

(e) When the sale is made, the proceeds thereof shall be used only to: (1) Call and redeem outstanding bonds associated with the Van Buren project and the land in accordance with their terms on or after their first

optional redemption date as may be permitted in accordance with the applicable bond covenants, along with any other legally available revenues as may be necessary; (2) pay the costs and expenses resulting from exercising the option to purchase; and (3) pay the closing costs and expenses of such sale. Any remaining moneys shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit as provided for the proceeds from the sale of surplus real estate pursuant to subsection (f) of K.S.A. 2013 Supp. 75-6609, and amendments thereto.

(f) In the event that the secretary of administration determines that the legal description of the parcel described by this section is incorrect, the secretary of administration may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general.

(g) As used in this section:

(1) “Van Buren project and land” means the following described real estate located in Shawnee County, Kansas, including all buildings, improvements, machinery and equipment constructed, located or installed on such real estate:

All of lots 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166 and 168 on Van Buren streets in the City of Topeka, Shawnee County, Kansas.

(2) “Lease with option to purchase agreement dated January 1, 1999” means the lease with option to purchase agreement dated January 1, 1999, as amended, entered into between the Topeka public building commission and the state of Kansas - department of social and rehabilitation services, currently known as the Kansas department for children and families.

Sec. 4. (a) The secretary of administration is hereby authorized and empowered, for and on behalf of the state of Kansas, as the tenant for the state of Kansas - Kansas department administration in the lease with option to purchase agreement dated December 1, 1998, to exercise such tenant’s option to purchase the Curtis state office building and the land pursuant to such lease with option to purchase agreement.

(b) No option to purchase, sale or conveyance of the real property described in subsection (a) shall be authorized or approved by the secretary of administration without having first advised and consulted with and approved by the joint committee on state building construction.

(c) Prior to the exercising of the option to purchase and the sale or conveyance of the real property described in subsection (a), the state finance council shall approve the option to purchase and sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto. The matter may be submitted to the state finance council

for approval at any time, including periods of time during which the legislature is in session.

(d) When such option has been exercised, the secretary of administration is hereby authorized and empowered, for and on behalf of the state of Kansas, to sell and convey all of the rights, title and interest in the Curtis state office building and land subject to the terms and conditions of the lease and any outstanding bonds.

(e) When the sale is made, the proceeds thereof shall be used only to: (1) Call and redeem outstanding bonds associated with the Curtis state office building and the land in accordance with their terms on or after their first optional redemption date as may be permitted in accordance with the applicable bond covenants, along with any other legally available revenues as may be necessary; (2) pay the costs and expenses resulting from exercising the option to purchase; and (3) pay the closing costs and expenses of such sale. Any remaining moneys shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit as provided for the proceeds from the sale of surplus real estate pursuant to subsection (f) of K.S.A. 2013 Supp. 75-6609, and amendments thereto.

(f) In the event that the secretary of administration determines that the legal description of the parcel described by this section is incorrect, the secretary of administration may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general.

(g) As used in this section:

(1) “Curtis state office building and land” means the following described real estate located in Shawnee County, Kansas, including all buildings, improvements, machinery and equipment constructed, located or installed on such real estate:

Lots 325, 327, 329, 331, 333, 335, 337, 339, 341, 343, 345 and 347 on Kansas Avenue; Lots 73, 75, 77, 79, 81, 83, 85, 87 and 89 on 10th Avenue East; and Lots 338, 340, 342, 344, 346 and 348 on Jackson Street in the City of Topeka, Shawnee County, Kansas.

(2) “Lease with option to purchase agreement dated December 1, 1998” means the lease with option to purchase agreement dated December 1, 1998, as amended, entered into between the Topeka public building commission and the state of Kansas - department of administration.

Sec. 5. (a) The secretary of administration is hereby authorized and empowered, for and on behalf of the state of Kansas, as the tenant for the state of Kansas - Kansas department administration in the lease with option to purchase agreement dated December 1, 1998, to exercise such tenant’s option to purchase the Curtis parking facility and the land pursuant to such lease with option to purchase agreement.

(b) No option to purchase, sale or conveyance of the real property described in subsection (a) shall be authorized or approved by the secretary of administration without having first advised and consulted with and approved by the joint committee on state building construction.

(c) Prior to the exercising of the option to purchase and the sale or conveyance of the real property described in subsection (a), the state finance council shall approve the option to purchase and sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(d) When such option has been exercised, the secretary of administration is hereby authorized and empowered, for and on behalf of the state of Kansas, to sell and convey all of the rights, title and interest in the Curtis parking facility and land subject to the terms and conditions of the lease and any outstanding bonds.

(e) When the sale is made, the proceeds thereof shall be used only to: (1) Call and redeem outstanding bonds associated with the Curtis parking facility and the land in accordance with their terms on or after their first optional redemption date as may be permitted in accordance with the applicable bond covenants, along with any other legally available revenues as may be necessary; (2) pay the costs and expenses resulting from exercising the option to purchase; and (3) pay the closing costs and expenses of such sale. Any remaining moneys shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit as provided for the proceeds from the sale of surplus real estate pursuant to subsection (f) of K.S.A. 2013 Supp. 75-6609, and amendments thereto.

(f) In the event that the secretary of administration determines that the legal description of the parcel described by this section is incorrect, the secretary of administration may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general.

(g) As used in this section:

(1) "Curtis parking facility and land" means the following described real estate located in Shawnee County, Kansas, including all buildings, improvements, machinery and equipment constructed, located or installed on such real estate:

Lots 349, 351, 353, 357 and 359 on Kansas Avenue; and Lots 350, 352, 354, 356, 358 and 360 on Jackson Street in the City of Topeka, Shawnee County, Kansas.

(2) "Lease with option to purchase agreement dated December 1, 1998" means the lease with option to purchase agreement dated Decem-

ber 1, 1998, as amended, entered into between the Topeka public building commission, the state of Kansas - department of administration and the City of Topeka, Kansas.

Sec. 6. (a) As used in this section:

(1) “Affiliated person” means:

(A) Any member of the immediate family of a state or local official; or

(B) any partnership, firm, corporation or limited liability company with which a state or local official is associated or in which a state or local official has an interest, or any partner, officer, director or employee thereof while the state or local official is associated with such partnership, firm, corporation or company.

(2) “State or local official” means any person who is:

(A) Any state officer or employee required to file a written statement of substantial interests pursuant to the state governmental ethics law;

(B) the governor or any full-time professional employee of the office of the governor;

(C) any member of the legislature and any full-time professional employee of the legislature;

(D) any justice of the supreme court, judge of the court of appeals or judge of the district court;

(E) the head of any state agency, the assistant or deputy heads of any state agency, or the head of any division within a state agency; or

(F) any member of the governing body of a city in Shawnee county or the governing body of Shawnee county; any municipal or county judge of such city or county; any city, county or district attorney of such city or county; and any member of or attorney for the planning board or zoning board of such city or county and any professional planner or consultant regularly employed or retained by such planning board or zoning board.

(b) No state or local official or affiliated person shall hold, directly or indirectly, an interest in, be employed by, represent or appear for any entity to bid on or purchase any property described in section 1, 2, 3, 4, or 5, and amendments thereto.

(c) No state or local official or affiliated person shall represent, appear for or negotiate on behalf of any person or entity submitting a proposal to bid on or purchase any property described in section 1, 2, 3, 4, or 5, and amendments thereto.

(d) No state or local official or affiliated person, within five years immediately subsequent to the termination of the office or employment of the official, shall hold, directly or indirectly, an interest in, be employed by or represent, appear for or negotiate on behalf of any person or entity submitting a proposal to bid on or purchase any property described in section 1, 2, 3, 4, or 5, and amendments thereto.

(e) No state or local official shall solicit or accept, directly or indi-

rectly, any complimentary service or discount from any person submitting a proposal to bid on or purchase any property described in section 1, 2, 3, 4, or 5, and amendments thereto, which such official knows or has reason to know is other than a service or discount that is offered to members of the general public in like circumstance.

(f) No state or local official shall influence, or attempt to influence, by use of official authority, the decision of the secretary of administration in selling or conveying any property described in section 1, 2, 3, 4, or 5, and amendments thereto. Any such attempt shall be reported promptly to the attorney general.

(g) Willful violation of this section is a class A misdemeanor.

Sec. 7.

DEPARTMENT OF ADMINISTRATION

(a) There is appropriated for the above agency from the special revenue fund or funds for the fiscal year ending June 30, 2015, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures shall not exceed the following:

Docking state office building rehab, repair and razing fund ..... \$15,000,000

*Provided*, That expenditures shall be made from the Docking state office building rehab, repair and razing fund only for demolition of the Docking state office building and related reconstruction, relocation, and renovation of the power plant.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 17, 2014.

Published in the *Kansas Register* April 24, 2014.

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CHAPTER 92

HOUSE BILL No. 2272

AN ACT concerning gaming; amending K.S.A. 2013 Supp. 74-8734 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 74-8734 is hereby amended to read as follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming facility in each gaming zone.

(b) Not more than 30 days after the effective date of this act the lottery commission shall adopt and publish in the Kansas register the procedure for receiving, considering and approving, proposed lottery gaming facility management contracts. Such procedure shall include pro-

visions for review of competitive proposals within a gaming zone and the date by which proposed lottery gaming facility management contracts must be received by the lottery commission if they are to receive consideration.

(c) The lottery commission shall adopt standards to promote the integrity of the gaming and finances of lottery gaming facilities, which shall apply to all management contracts, shall meet or exceed industry standards for monitoring and controlling the gaming and finances of gaming facilities and shall give the executive director sufficient authority to monitor and control the gaming operation and to ensure its integrity and security.

(d) The Kansas lottery commission may approve management contracts with one or more prospective lottery gaming facility managers to manage, or construct and manage, on behalf of the state of Kansas and subject to the operational control of the Kansas lottery, a lottery gaming facility or lottery gaming enterprise at specified destination locations within the northeast, south central, southwest and southeast Kansas gaming zones where the commission determines the operation of such facility would promote tourism and economic development. The commission shall approve or disapprove a proposed management contract within 90 days after the deadline for receipt of proposals established pursuant to subsection (b).

(e) In determining whether to approve a management contract with a prospective lottery gaming facility manager to manage a lottery gaming facility or lottery gaming enterprise pursuant to this section, the commission shall take into consideration the following factors: The size of the proposed facility; the geographic area in which such facility is to be located; the proposed facility's location as a tourist and entertainment destination; the estimated number of tourists that would be attracted by the proposed facility; the number and type of lottery facility games to be operated at the proposed facility; and agreements related to ancillary lottery gaming facility operations.

(f) Subject to the requirements of this section, the commission shall approve at least one proposed lottery gaming facility management contract for a lottery gaming facility in each gaming zone.

(g) The commission shall not approve a management contract unless:

(1) (A) The prospective lottery gaming facility manager is a resident Kansas American Indian tribe and, at a minimum: (i) Has sufficient access to financial resources to support the activities required of a lottery gaming facility manager under the Kansas expanded lottery act; and (ii) has three consecutive years' experience in the management of gaming which would be class III gaming, as defined in K.S.A. 46-2301, and amendments thereto, operated pursuant to state or federal law; or

(B) the prospective lottery gaming facility manager is not a resident Kansas American Indian tribe and, at a minimum: (i) Has sufficient access

to financial resources to support the activities required of a lottery gaming facility manager under the Kansas expanded lottery act; (ii) is current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the state of Kansas and any taxing subdivision where such prospective manager is located in the state of Kansas, excluding items under formal appeal pursuant to applicable statutes; and (iii) has three consecutive years' experience in the management of gaming which would be class III gaming, as defined in K.S.A. 46-2301, and amendments thereto, operated pursuant to state or federal law; and

(2) the commission determines that the proposed development consists of an investment in infrastructure, including ancillary lottery gaming facility operations, of at least \$225,000,000 in the northeast, ~~southeast~~ and south central Kansas gaming zones and *of at least* \$50,000,000 in the *southeast and southwest* Kansas gaming ~~zone~~ *zones*. The commission, in determining whether the minimum investment required by this subsection is met, shall not include any amounts derived from or financed by state or local retailers' sales tax revenues.

(h) Any management contract approved by the commission under this section shall:

(1) Have a maximum initial term of 15 years from the date of opening of the lottery gaming facility. At the end of the initial term, the contract may be renewed by mutual consent of the state and the lottery gaming facility manager;

(2) specify the total amount to be paid to the lottery gaming facility manager pursuant to the contract;

(3) establish a mechanism to facilitate payment of lottery gaming facility expenses, payment of the lottery gaming facility manager's share of the lottery gaming facility revenues and distribution of the state's share of the lottery gaming facility revenues;

(4) include a provision for the lottery gaming facility manager to pay the costs of oversight and regulation of the lottery gaming facility manager and the operations of the lottery gaming facility by the Kansas racing and gaming commission;

(5) establish the types of lottery facility games to be installed in such facility;

(6) provide for the prospective lottery gaming facility manager, upon approval of the proposed lottery gaming facility management contract, to pay to the state treasurer a privilege fee of \$25,000,000 for the privilege of being selected as a lottery gaming facility manager of a lottery gaming facility in the northeast, ~~southeast~~ or south central Kansas gaming zone and \$5,500,000 for the privilege of being selected as a lottery gaming facility manager of a lottery gaming facility in the *southeast or southwest* Kansas gaming zone. Such fee shall be deposited in the state treasury and credited to the lottery gaming facility manager fund, which is hereby created in the state treasury;

(7) incorporate terms and conditions for the ancillary lottery gaming facility operations;

(8) designate as key employees, subject to approval of the executive director, any employees or contractors providing services or functions which are related to lottery facility games authorized by a management contract;

(9) include financing commitments for construction;

(10) include a resolution of endorsement from the city governing body, if the proposed facility is within the corporate limits of a city, or from the county commission, if the proposed facility is located in the unincorporated area of the county;

(11) include a requirement that any parimutuel licensee developing a lottery gaming facility pursuant to this act comply with all orders and rules and regulations of the Kansas racing and gaming commission with regard to the conduct of live racing, including the same minimum days of racing as specified in K.S.A. 2013 Supp. 74-8746, and amendments thereto, for operation of electronic gaming machines at racetrack gaming facilities;

(12) include a provision for the state to receive not less than 22% of lottery gaming facility revenues, which shall be paid to the expanded lottery act revenues fund established by K.S.A. 2013 Supp. 74-8768, and amendments thereto;

(13) include a provision for 2% of lottery gaming facility revenues to be paid to the problem gambling and addictions grant fund established by K.S.A. 2013 Supp. 79-4805, and amendments thereto;

(14) if the prospective lottery gaming facility manager is an American Indian tribe, include a provision that such tribe agrees to waive its sovereign immunity with respect to any actions arising from or to enforce either the Kansas expanded lottery act or any provision of the lottery gaming facility management contract; any action brought by an injured patron or by the state of Kansas; any action for purposes of enforcing the workers compensation act or any other employment or labor law; and any action to enforce laws, rules and regulations and codes pertaining to health, safety and consumer protection; and for any other purpose deemed necessary by the executive director to protect patrons or employees and promote fair competition between the tribe and others seeking a lottery gaming facility management contract;

(15) (A) if the lottery gaming facility is located in the northeast or southwest Kansas gaming zone and is not located within a city, include a provision for payment of an amount equal to 3% of the lottery gaming facility revenues to the county in which the lottery gaming facility is located; or (B) if the lottery gaming facility is located in the northeast or southwest Kansas gaming zone and is located within a city, include provision for payment of an amount equal to 1.5% of the lottery gaming facility revenues to the city in which the lottery gaming facility is located

and an amount equal to 1.5% of such revenues to the county in which such facility is located;

(16) (A) if the lottery gaming facility is located in the southeast or south central Kansas gaming zone and is not located within a city, include a provision for payment of an amount equal to 2% of the lottery gaming facility revenues to the county in which the lottery gaming facility is located and an amount equal to 1% of such revenues to the other county in such zone; or (B) if the lottery gaming facility is located in the southeast or south central Kansas gaming zone and is located within a city, provide for payment of an amount equal to 1% of the lottery gaming facility revenues to the city in which the lottery gaming facility is located, an amount equal to 1% of such revenues to the county in which such facility is located and an amount equal to 1% of such revenues to the other county in such zone;

(17) allow the lottery gaming facility manager to manage the lottery gaming facility in a manner consistent with this act and applicable law, but shall place full, complete and ultimate ownership and operational control of the gaming operation of the lottery gaming facility with the Kansas lottery. The Kansas lottery shall not delegate and shall explicitly retain the power to overrule any action of the lottery gaming facility manager affecting the gaming operation without prior notice. The Kansas lottery shall retain full control over all decisions concerning lottery gaming facility games;

(18) include provisions for the Kansas racing and gaming commission to oversee all lottery gaming facility operations, including, but not limited to: Oversight of internal controls; oversight of security of facilities; performance of background investigations, determination of qualifications and credentialing of employees, contractors and agents of the lottery gaming facility manager and of ancillary lottery gaming facility operations, as determined by the Kansas racing and gaming commission; auditing of lottery gaming facility revenues; enforcement of all state laws and maintenance of the integrity of gaming operations; and

(19) include enforceable provisions: (A) Prohibiting the state, until July 1, 2032, from: (i) Entering into management contracts for more than four lottery gaming facilities or similar gaming facilities, one to be located in the northeast Kansas gaming zone, one to be located in the south central Kansas gaming zone, one to be located in the southwest Kansas gaming zone and one to be located in the southeast Kansas gaming zone;; (ii) designating additional areas of the state where operation of lottery gaming facilities or similar gaming facilities would be authorized; or (iii) operating an aggregate of more than 2,800 electronic gaming machines at all parimutuel licensee locations; and (B) requiring the state to repay to the lottery gaming facility manager an amount equal to the privilege fee paid by such lottery gaming facility manager, plus interest on such

amount, compounded annually at the rate of 10%, if the state violates the prohibition provision described in (A).

(i) The power of eminent domain shall not be used to acquire any interest in real property for use in a lottery gaming enterprise.

(j) Any proposed management contract for which the privilege fee has not been paid to the state treasurer within 30 days after the date of approval of the management contract shall be null and void.

(k) A person who is the manager of the racetrack gaming facility in a gaming zone shall not be eligible to be the manager of the lottery gaming facility in the same zone.

(l) Management contracts authorized by this section may include provisions relating to:

(1) Accounting procedures to determine the lottery gaming facility revenues, unclaimed prizes and credits;

(2) minimum requirements for a lottery gaming facility manager to provide qualified oversight, security and supervision of the lottery facility games including the use of qualified personnel with experience in applicable technology;

(3) eligibility requirements for employees, contractors or agents of a lottery gaming facility manager who will have responsibility for or involvement with actual gaming activities or for the handling of cash or tokens;

(4) background investigations to be performed by the Kansas racing and gaming commission;

(5) credentialing requirements for any employee, contractor or agent of the lottery gaming facility manager or of any ancillary lottery gaming facility operation as provided by the Kansas expanded lottery act or rules and regulations adopted pursuant thereto;

(6) provision for termination of the management contract by either party for cause; and

(7) any other provision deemed necessary by the parties, including such other terms and restrictions as necessary to conduct any lottery facility game in a legal and fair manner.

(m) A management contract shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, except upon approval by the executive director, nor shall it be subject to being encumbered or hypothecated. The trustee of any insolvent or bankrupt lottery gaming facility manager may continue to operate pursuant to the management contract under order of the appropriate court for no longer than one year after the bankruptcy or insolvency of such manager.

(n) (1) The Kansas lottery shall be the licensee and owner of all software programs used at a lottery gaming facility for any lottery facility game.

(2) A lottery gaming facility manager, on behalf of the state, shall purchase or lease for the Kansas lottery all lottery facility games. All lot-

tery facility games shall be subject to the ultimate control of the Kansas lottery in accordance with this act.

(o) A lottery gaming facility shall comply with any planning and zoning regulations of the city or county in which it is to be located. The executive director shall not contract with any prospective lottery gaming facility manager for the operation and management of such lottery gaming facility unless such manager first receives any necessary approval under planning and zoning requirements of the city or county in which it is to be located.

(p) Prior to expiration of the term of a lottery gaming facility management contract, the lottery commission may negotiate a new lottery gaming facility management contract with the lottery gaming facility manager if the new contract is substantially the same as the existing contract. Otherwise, the lottery gaming facility review board shall be reconstituted and a new lottery gaming facility management contract shall be negotiated and approved in the manner provided by this act.

Sec. 2. K.S.A. 2013 Supp. 74-8734 is hereby repealed.

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

(See Messages from the Governor.)

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CHAPTER 93

Senate Substitute for HOUSE BILL No. 2506  
(Amended by Chapters 127, 129 and 142)

TO	SEC.	TO	SEC.
Administration, department of .....	2	Kansas state university — extension systems and agriculture research programs .....	11, 12
Aging and disability services, Kansas department for .....	3	Kansas state university veterinary medical center .....	13
Children and families, Kansas department for .....	4, 5	Pittsburg state university .....	16
Education, department of .....	6, 7	Post audit, division of .....	1
Emporia state university .....	14, 15	Regents, state board of .....	23, 24
Fire marshal, state .....	25	Transportation, department of .....	27
Fort Hays state university .....	8	University of Kansas .....	17, 18
Highway patrol, Kansas .....	26	University of Kansas medical center .....	19, 20
Kansas state university .....	9, 10	Wichita state university .....	21, 22

AN ACT concerning education; relating to the financing and instruction thereof; making and concerning appropriations for the fiscal years ending June 30, 2014, and June 30, 2015, for certain agencies; authorizing the state board of regents to sell and convey or exchange certain real estate with the Emporia state university foundation; authorizing the state board of regents to exchange and convey certain real estate with the Kansas university endowment association; amending K.S.A. 72-1412, 72-5333b, 72-5439, 72-5446, 72-6416 and 72-8809 and K.S.A. 2013 Supp. 72-1127, 72-1925, 72-5436, 72-5437, 72-5438, 72-5445, 72-6407, 72-6410, 72-6415b, 72-6417, 72-6431, 72-6433, 72-6433d, 72-6441, 72-8254, 72-8814 and 79-32,138 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 72-6454.

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

Section 1.

DIVISION OF POST AUDIT

(a) During fiscal year 2015, in addition to the other purposes for which expenditures may be made by the above agency from the operations (including legislative post audit committee) account for fiscal year 2015 as authorized by section 84(a) of chapter 136 of the 2013 Session Laws of Kansas, this act or other appropriation act of the 2014 regular session of the legislature, expenditures shall be made by the above agency from the operations (including legislative post audit committee) account for fiscal year 2015 to conduct a performance audit of the costs associated with operating virtual schools in Kansas: *Provided*, That such audit report shall be submitted to the legislative post audit committee on or before February 1, 2015.

Sec. 2.

DEPARTMENT OF ADMINISTRATION

(a) On the effective date of this act or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$24,000,000 from the FICA reimbursements medical residents fund of the department of administration to the state general fund.

Sec. 3.

KANSAS DEPARTMENT FOR AGING  
AND DISABILITY SERVICES

(a) On the effective date of this act, or as soon thereafter as moneys

are available, notwithstanding the provisions of K.S.A. 79-4805, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$2,500,000 from the problem gambling and addictions grant fund of the Kansas department for aging and disability services to the state general fund.

Sec. 4.

KANSAS DEPARTMENT FOR CHILDREN AND FAMILIES

(a) On the effective date of this act, or as soon thereafter as moneys are available, of the \$6,000,000 appropriated for the above agency for the fiscal year ending June 30, 2014, by section 139(c) of chapter 136 of the 2013 Session Laws of Kansas from the children’s initiatives fund in the Kansas reads to succeed account, the sum of \$1,000,000 is hereby lapsed.

(b) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,000,000 from the children’s initiatives fund to the state general fund.

(c) On the effective date of this act, of the \$92,907,035 appropriated for the above agency for the fiscal year ending June 30, 2014, by section 139(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the state operations (including official hospitality) account, the sum of \$1,750,000 is hereby lapsed.

Sec. 5.

KANSAS DEPARTMENT FOR CHILDREN AND FAMILIES

(a) On July 1, 2014, of the \$93,319,557 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 140(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the state operations (including official hospitality) account, the sum of \$1,500,000 is hereby lapsed.

(b) On July 1, 2014, or as soon thereafter as moneys are available, of the \$20,158,937 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 140(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the cash assistance account, the sum of \$4,700,000 is hereby lapsed.

Sec. 6.

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2014, the following:

Special education services aid.....	\$1,029,612
General state aid.....	\$17,836,773

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2014, all moneys now or hereafter lawfully credited to and available in such

fund or funds, except that expenditures other than refunds authorized by law and transfers to other state agencies shall not exceed the following:

State assessment fund ..... \$1,100,000

(c) On the effective date of this act, of the \$328,245,211 appropriated for the above agency for the fiscal year ending June 30, 2014, by section 143(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the KPERS — employer contributions account, the sum of \$7,447,869 is hereby lapsed.

(d) On the effective date of this act, the \$25,000 appropriated for the above agency for the fiscal year ending June 30, 2014, by section 143(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the technical education promotion account, is hereby lapsed.

(e) On March 30, 2014, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-267 or 8-272, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$550,000 from the state safety fund of the department of education to the state assessment fund of the department of education.

(f) On June 30, 2014, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-267 or 8-272, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$550,000 from the state safety fund of the department of education to the state assessment fund of the department of education.

(g) The director of accounts and reports shall not make the transfer of \$550,000 from the state safety fund of the department of education to the state general fund which was directed to be made on March 30, 2014, by section 143(e) of chapter 136 of the 2013 Session Laws of Kansas, and, on the effective date of this act, the provisions of section 143(e) of chapter 136 of the 2013 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

(h) The director of accounts and reports shall not make the transfer of \$550,000 from the state safety fund of the department of education to the state general fund which was directed to be made on June 30, 2014, by section 143(f) of chapter 136 of the 2013 Session Laws of Kansas, and, on the effective date of this act, the provisions of section 143(f) of chapter 136 of the 2013 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

Sec. 7.

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Operating expenditures (including official hospitality) ..... \$82,500

*Provided*, That the above agency shall make expenditures from the operating expenditures (including official hospitality) account during the

fiscal year 2015, in the amount not less than \$82,500 for the KIDS data system of the department of education.

Special education services aid.....	\$578,363
Governor’s teaching excellence scholarships and awards...	\$327,500
General state aid .....	\$11,721,794
Supplemental general state aid.....	\$109,265,000

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2015, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law and transfers to other state agencies shall not exceed the following:

State assessment fund .....	\$1,100,000
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(c) On July 1, 2014, of the \$363,284,462 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 144(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the KPERs — employer contributions account, the sum of \$4,582,820 is hereby lapsed.

(d) On July 1, 2014, the \$50,000 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 144(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the technical education promotion account, is hereby lapsed.

(e) On March 30, 2015, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-267 or 8-272, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$550,000 from the state safety fund of the department of education to the state assessment fund of the department of education.

(f) On June 30, 2015, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-267 or 8-272, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$550,000 from the state safety fund of the department of education to the state assessment fund of the department of education.

(g) The director of accounts and reports shall not make the transfer of \$550,000 from the state safety fund of the department of education to the state general fund which was directed to be made on March 30, 2015, by section 144(e) of chapter 136 of the 2013 Session Laws of Kansas, and, on the effective date of this act, the provisions of section 144(e) of chapter 136 of the 2013 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

(h) The director of accounts and reports shall not make the transfer of \$550,000 from the state safety fund of the department of education to the state general fund which was directed to be made on June 30, 2015, by section 144(f) of chapter 136 of the 2013 Session Laws of Kansas, and, on the effective date of this act, the provisions of section 144(f) of chapter

136 of the 2013 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

(i) On July 1, 2014, any unencumbered balance in the school district juvenile detention facilities and Flint Hills job corps center grants account in excess of \$100 as of June 30, 2014, is hereby reappropriated to the operating expenditures (including official hospitality) account of the above agency for fiscal year 2015: *Provided, however*, That expenditures from such reappropriated balance shall be expended to assist in funding the KIDS data system of the department of education: *Provided further*, That on July 1, 2014, the provisions of section 144(a) of chapter 136 of the 2013 Session Laws of Kansas, reappropriating any unencumbered balance in the school district juvenile detention facilities and Flint Hills job corps center grants account in excess of \$100 as of June 30, 2014, for fiscal year 2015 is hereby declared to be null and void and shall have no force and effect.

(j) On July 1, 2014, the expenditure limitation established for the fiscal year ending June 30, 2015, by section 144(b) of chapter 136 of the 2013 Session Laws of Kansas on the school district capital outlay state aid fund of the department of education is hereby increased from \$0 to no limit.

Sec. 8.

#### FORT HAYS STATE UNIVERSITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Operating expenditures (including official hospitality)..... \$1,024,913

(b) In addition to the other purposes for which expenditures may be made by Fort Hays state university from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2015 authorized by chapter 136 of the 2013 Session Laws of Kansas, this act or other appropriation act of the 2014 regular session of the legislature, expenditures shall be made by Fort Hays state university from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2015 to provide for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for a capital improvement project for the Weist hall replacement project: *Provided*, That such capital improvement project is hereby approved for Fort Hays state university for the purpose of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *Provided further*, That Fort Hays state university may make expenditures from the moneys received from the issuance of any such bonds for such capital improvement project: *Provided, however*, That expenditures from the moneys received from the issuance of any such bonds for such capital

improvement project shall not exceed \$25,000,000, plus all amounts required for costs of bonds issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project, credit enhancement costs and any required reserves for payment of principal interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such capital improvement projects shall be financed by appropriations for any appropriate special revenue fund or funds: *And provided further*, That Fort Hays state university may make provisions for the maintenance of the Weist hall.

Sec. 9.

KANSAS STATE UNIVERSITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2014, the following:

Operating expenditures (including official hospitality)..... \$949,829

Sec. 10.

KANSAS STATE UNIVERSITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Operating expenditures (including official hospitality)..... \$6,065,180

*Provided*, That, during fiscal year 2015, in addition to the other purposes for which expenditures may be made by the above agency from the operating expenditures (including official hospitality) account for fiscal year 2015 as authorized by chapter 136 of the 2013 Session Laws of Kansas, this act or other appropriation act of the 2014 regular session of the legislature, expenditures shall be made by the above agency from the operating expenditures (including official hospitality) account for fiscal year 2015 for global food systems research: *Provided further*, That all amounts expended for global food systems research from the operating expenditures (including official hospitality) account for fiscal year 2015 shall be matched by Kansas state university on a \$1 for \$1 basis from other moneys of Kansas state university for global food systems research for which the money is expended: *And provided further*, That Kansas state university shall submit a plan to the house committee on appropriations and the senate committee on ways and means as to how global food systems research activities create additional jobs for the state for fiscal year 2015: *And provided further*, That, such expenditures for global food systems research shall be in an amount not less than \$5,000,000.

(b) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, for the capital improvement project or projects specified, the following:

School of architecture ..... \$1,500,000

(c) In addition to the other purposes for which expenditures may be made by Kansas state university from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2015 authorized by chapter 136 of the 2013 Session Laws of Kansas, this act or other appropriation act of the 2014 regular session of the legislature, expenditures shall be made by Kansas state university from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2015 to provide for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for a capital improvement project to expand the chilled water plant: *Provided*, That such capital improvement project is hereby approved for Kansas state university for the purpose of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *Provided further*, That Kansas state university may make expenditures from the moneys received from the issuance of any such bonds for such capital improvement project: *Provided, however*, That expenditures from the moneys received from the issuance of any such bonds for such capital improvement project shall not exceed \$56,000,000, plus all amounts required for costs of bonds issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project, credit enhancement costs and any required reserves for payment of principal interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such capital improvement projects shall be financed by appropriations for any appropriate special revenue fund or funds: *And provided further*, That Kansas state university may make provisions for the maintenance of the chilled water plant.

Sec. 11.

KANSAS STATE UNIVERSITY — EXTENSION SYSTEMS AND AGRICULTURE RESEARCH PROGRAMS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2014, the following:

Cooperative extension service (including official hospitality) .....	\$540,202
Agricultural experiment stations (including official hospitality) .....	\$960,360

Sec. 12.

KANSAS STATE UNIVERSITY — EXTENSION SYSTEMS AND AGRICULTURE RESEARCH PROGRAMS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Cooperative extension service (including official hospitality) .....	\$491,177
Agricultural experiment stations (including official hospitality) .....	\$873,205

Sec. 13.

**KANSAS STATE UNIVERSITY  
VETERINARY MEDICAL CENTER**

(a) On July 1, 2014, of the \$9,623,280 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 160(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the operating expenditures account, the sum of \$14,742 is hereby lapsed.

Sec. 14.

**EMPORIA STATE UNIVERSITY**

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2014, the following:

Operating expenditures (including official hospitality) .....	\$672,320
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(b) In addition to the other purposes for which expenditures may be made by Emporia state university from the restricted fees fund for fiscal year 2014 as authorized by section 161(b) of chapter 136 of the 2013 Session Laws of Kansas, expenditures may be made by the above agency from the restricted fees fund for fiscal year 2014 for official hospitality.

(c) In addition to the other purposes for which expenditures may be made by Emporia state university from the reading recovery program account for fiscal year 2014 as authorized by section 161(a) of chapter 136 of the 2013 Session Laws of Kansas, expenditures may be made by the above agency from the reading recovery program account for fiscal year 2014 for official hospitality.

(d) In addition to the other purposes for which expenditures may be made by Emporia state university from the nat'l board cert/future teacher academy account for fiscal year 2014 as authorized by section 161(a) of chapter 136 of the 2013 Session Laws of Kansas, expenditures may be made by the above agency from the nat'l board cert/future teacher academy account for fiscal year 2014 for official hospitality.

Sec. 15.

**EMPORIA STATE UNIVERSITY**

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Operating expenditures (including official hospitality) .....	\$1,811,386
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(b) In addition to the other purposes for which expenditures may be made by Emporia state university from the restricted fees fund for fiscal year 2015 as authorized by section 162(b) of chapter 136 of the 2013

Session Laws of Kansas, expenditures may be made by the above agency from the restricted fees fund for fiscal year 2015 for official hospitality.

(c) In addition to the other purposes for which expenditures may be made by Emporia state university from the reading recovery program account for fiscal year 2015 as authorized by section 162(a) of chapter 136 of the 2013 Session Laws of Kansas, expenditures may be made by the above agency from the reading recovery program account for fiscal year 2015 for official hospitality.

(d) In addition to the other purposes for which expenditures may be made by Emporia state university from the nat'l board cert/future teacher academy account for fiscal year 2015 as authorized by section 162(a) of chapter 136 of the 2013 Session Laws of Kansas, expenditures may be made by the above agency from the nat'l board cert/future teacher academy account for fiscal year 2015 for official hospitality.

Sec. 16.

PITTSBURG STATE UNIVERSITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Operating expenditures (including official hospitality)..... \$1,011,858

Sec. 17.

UNIVERSITY OF KANSAS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2014, the following:

Operating expenditures (including official hospitality)..... \$77,935

Sec. 18.

UNIVERSITY OF KANSAS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Operating expenditures (including official hospitality)..... \$85,768

(b) In addition to the other purposes for which expenditures may be made by the university of Kansas from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2015 authorized by chapter 136 of the 2013 Session Laws of Kansas, this act or other appropriation act of the 2014 regular session of the legislature, expenditures shall be made by the university of Kansas from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2015 to provide for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for a capital improvement project for the earth energy environment center: *Provided*, That such capital improvement project is hereby approved for the university of Kansas for the purpose of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of the issuance of bonds by the Kansas

development finance authority in accordance with that statute: *Provided further*, That the university of Kansas may make expenditures from the moneys received from the issuance of any such bonds for such capital improvement project: *Provided, however*, That expenditures from the moneys received from the issuance of any such bonds for such capital improvement project shall not exceed \$25,000,000, plus all amounts required for costs of bonds issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project, credit enhancement costs and any required reserves for payment of principal interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such capital improvement projects shall be financed by appropriations for any appropriate special revenue fund or funds: *And provided further*, That the university of Kansas may make provisions for the maintenance of the earth energy environment center.

Sec. 19.

UNIVERSITY OF KANSAS MEDICAL CENTER

(a) There is appropriated from the above agency from the state general fund for the fiscal year ending June 30, 2014, the following:

Operating expenditures (including official hospitality)..... \$1,730,679

Sec. 20.

UNIVERSITY OF KANSAS MEDICAL CENTER

(a) There is appropriated from the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Operating expenditures (including official hospitality)..... \$7,328,224

*Provided*, That, during fiscal year 2015, in addition to the other purposes for which expenditures may be made by the above agency from the operating expenditures (including official hospitality) account for fiscal year 2015 as authorized by chapter 136 of the 2013 Session Laws of Kansas, this act or other appropriation act of the 2014 regular session of the legislature, expenditures shall be made by the above agency from the operating expenditures (including official hospitality) account for fiscal year 2015 for cancer center research: *Provided further*, That all amounts expended for cancer center research from the operating expenditures (including official hospitality) account for fiscal year 2015 shall be matched by the university of Kansas medical center on a \$1 for \$1 basis from other moneys of the university of Kansas medical center for the cancer center research for which the money is expended: *And provided further*, That the university of Kansas medical center shall submit a plan to the house committee on appropriations and the senate committee on ways and means as to how the cancer center research activities create additional jobs for the state for fiscal year 2015: *And provided further*,

That, such expenditures for cancer center research shall be in an amount not less than \$5,000,000.

Rural health bridging ..... \$70,000

*Provided*, That expenditures from the rural health bridging account shall not be used to supplant or replace funds already budgeted for the rural health bridging program of the university of Kansas medical center.

Midwest stem cell therapy center ..... \$9,000

(b) In addition to the other purposes for which expenditures may be made by the university of Kansas medical center from the moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2015 authorized by chapter 136 of the 2013 Session Laws of Kansas, this act or other appropriation act of the 2014 regular session of the legislature, and in addition to the bonding authority issued pursuant to section 240(d) of the 2013 Session Laws of Kansas, expenditures shall be made by the university of Kansas medical center from moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal year 2015 to provide for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for a capital improvement project construction of the health education building part two at the university of Kansas medical center: *Provided*, That such capital improvement project is hereby approved for the university of Kansas medical center for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *Provided further*, That the university of Kansas medical center may make expenditures from the moneys received from the issuance of any such bonds for such capital improvement project: *Provided, however*, That expenditures from the moneys received from the issuance of any such bonds for such capital improvement project shall not exceed \$25,000,000, plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project, credit enhancement costs and any required reserves for payment of principal and interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such capital improvement projects shall be financed by appropriations from the state general fund or any appropriate special revenue fund or funds: *And provided further*, That the university of Kansas medical center may make provisions for the maintenance of the buildings.

Sec. 21.

WICHITA STATE UNIVERSITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2014, the following:

Operating expenditures (including official hospitality)..... \$281,267

Sec. 22.

WICHITA STATE UNIVERSITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Operating expenditures (including official hospitality)..... \$10,514,755

*Provided*, That, during fiscal year 2015, in addition to the other purposes for which expenditures may be made by the above agency from the operating expenditures (including official hospitality) account for fiscal year 2015 as authorized by chapter 136 of the 2013 Session Laws of Kansas, this act or other appropriation act of the 2014 regular session of the legislature, expenditures shall be made by the above agency from the operating expenditures (including official hospitality) account for fiscal year 2015 for aviation research: *Provided further*, That all amounts expended for aviation research from the operating expenditures (including official hospitality) account for fiscal year 2015 shall be matched by Wichita state university on a \$1 for \$1 basis from other moneys of Wichita state university for the aviation research for which the money is expended: *And provided further*, That Wichita state university shall submit a plan to the house committee on appropriations and the senate committee on ways and means as to how the aviation research activities create additional jobs for the state for fiscal year 2015: *And provided further*, That, such expenditures for aviation research shall be in an amount not less than \$5,000,000: *And provided further*, That, during fiscal year 2015, in addition to the other purposes for which expenditures may be made by the above agency from the operating expenditures (including official hospitality) account for fiscal year 2015 as authorized by chapter 136 of the 2013 Session Laws of Kansas, this act or other appropriation act of the 2014 regular session of the legislature, expenditures shall be made by the above agency from the operating expenditures (including official hospitality) account for fiscal year 2015 for training and equipment expenditures of the national center for aviation training: *And provided further*, That, such expenditures for such training and equipment expenditures shall be in an amount not less than \$3,500,000.

(b) On July 1, 2014, of the \$2,981,537 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 170(c) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the aviation infrastructure account, the sum of \$2,981,537 is hereby lapsed.

(c) On July 1, 2014, or as soon thereafter as moneys are available, the

director of accounts and reports shall transfer \$2,981,537 from the state economic development initiatives fund to the state general fund.

Sec. 23.

STATE BOARD OF REGENTS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2014, the following:

Tuition for technical education.....	\$9,250,000
Municipal university operating grant .....	\$169,698

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2014, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Temporary assistance for needy families federal fund .....	No limit
Workforce data quality initiative .....	No limit

Sec. 24.

STATE BOARD OF REGENTS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Tuition for technical education.....	\$12,000,000
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*Provided*, That, notwithstanding the provisions of any other statute, in addition to the other purposes for which expenditures may be made by the above agency from the tuition for technical education account of the state general fund for fiscal year 2015, expenditures shall be made by the above agency from the tuition for technical education account of the state general fund for fiscal year 2015 for the payment of technical education tuition for adult students who are enrolled in technical education classes while obtaining a GED using the Accelerating Opportunity program: *Provided further*, That, such expenditures shall be in an amount not less than \$500,000.

Postsecondary tiered technical education state aid.....	\$900,752
Non-tiered course credit hour grant.....	\$1,194,020
Municipal university operating grant .....	\$169,698

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2015, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Temporary assistance for needy families federal fund .....	No limit
Workforce data quality initiative .....	No limit
Postsecondary education performance-based incentives fund .....	\$1,905,228

(c) On July 1, 2014, or as soon thereafter as moneys are available, the

director of accounts and reports shall transfer \$1,905,228 from the state general fund to the postsecondary education performance-based incentives fund of the state board of regents.

Sec. 25.

#### STATE FIRE MARSHAL

(a) On July 1, 2014, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$2,500,000 from the fire marshal fee fund of the state fire marshal to the state general fund.

Sec. 26.

#### KANSAS HIGHWAY PATROL

(a) On July 1, 2014, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,000,000 from the vehicle identification number fee fund of the Kansas highway patrol to the state general fund.

Sec. 27.

#### DEPARTMENT OF TRANSPORTATION

(a) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 68-416, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$3,500,000 from the municipal university forensic laboratory fund of the department of transportation to the state general fund.

New Sec. 28. Article 6 of the constitution of the state of Kansas states that the legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools; provide for a state board of education having general supervision of public schools, educational institutions and the educational interests of the state, except those delegated by law to the state board of regents; and make suitable provision for finance of the educational interests of the state. It is the purpose and intention of the legislature to provide a financing system for the education of kindergarten and grades one through 12 which provides students with the capacities set forth in K.S.A. 2013 Supp. 72-1127, and amendments thereto. Such financing system shall be sufficiently flexible for the legislature to consider and utilize financing methods from all available resources in order to satisfy the constitutional requirements under article 6. Such financing methods shall include, but are not limited to, the following:

(a) Federal funding to unified school districts or public schools, including any grants or federal assistance;

(b) subject to appropriations by the legislature, appropriations of state moneys for the improvement of public education, including, but not limited to, the following:

(1) Financing to unified school districts through the school district

finance and quality performance act pursuant to K.S.A. 72-6405 et seq., and amendments thereto;

(2) financing to unified school districts through any provisions which provide state aid, such as capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts;

(3) employer contributions to the Kansas public employees retirement system for public schools;

(4) appropriations to the Kansas children's cabinet for programs serving students enrolled in unified school districts in meeting the goal specified in K.S.A. 2013 Supp. 72-1127, and amendments thereto;

(5) appropriations to any programs which provide early learning to four-year-old children with the purpose of preparing them for success in public schools;

(6) appropriations to any programs, such as communities in schools, which provide individualized support to students enrolled in unified school districts in meeting the goal specified in K.S.A. 2013 Supp. 72-1127, and amendments thereto;

(7) transportation financing, including any transfers from the state general fund and state highway fund to the state department of education to provide technical education transportation, special education transportation or school bus safety;

(8) financing to other facilities providing public education to students, such as the Kansas state school for the blind, the Kansas state school for the deaf, school district juvenile detention facilities and the Flint Hills job corps center;

(9) appropriations relating to the Kansas academy of mathematics and science;

(10) appropriations relating to teaching excellence, such as scholarships, awards, training or in-service workshops;

(11) appropriations to the state board of regents to provide technical education incentives to unified school districts and tuition costs to postsecondary institutions which provide career technical education to secondary students; and

(12) appropriations to any postsecondary educational institution which provides postsecondary education to a secondary student without charging tuition to such student;

(c) any provision which authorizes the levying of local taxes for the purpose of financing public schools; and

(d) any transfer of funds or appropriations from one object or fund to another approved by the legislature for the purpose of financing public schools.

New Sec. 29. (a) There is hereby established the K-12 student performance and efficiency commission. The commission shall study and

make recommendations to the legislature regarding opportunities to make more efficient use of taxpayer money. The commission shall particularly study and review the following areas:

(1) Opportunities for school districts to be operated in a cost-effective manner;

(2) variances in per-pupil and administrative expenditures among school districts with comparable enrollment, demographics and outcomes on statewide assessments;

(3) opportunities for implementation of any recommendations made by any efficiency task forces established by the governor prior to July 1, 2014;

(4) administrative functions that may be shared between school districts; and

(5) expenditures that are not directly or sufficiently related to the goal of providing each and every child with the capacities set forth in K.S.A. 2013 Supp. 72-1127, and amendments thereto.

(b) The K-12 student performance and efficiency commission shall be composed of nine voting members as follows:

(1) (A) Six at-large members appointed as follows: Two shall be appointed by the president of the senate, one shall be appointed by the minority leader of the senate, two shall be appointed by the speaker of the house of representatives and one shall be appointed by the minority leader of the house of representatives; and

(B) three at-large members appointed by the governor.

(2) The commissioner of education, the director of the budget, the revisor of statutes, the legislative post auditor and the director of legislative research shall be nonvoting, ex-officio members of the commission.

(c) The speaker of the house of representatives shall designate the member to convene and organize the first meeting of the commission at which the commission shall elect a chairperson from among its voting members. Any vacancy in the membership of the commission shall be filled by appointment in the manner prescribed by this section for the original appointment.

(d) A majority of all voting members shall constitute a quorum. All actions of the commission shall be taken by a majority of all voting members of the commission.

(e) Members of the commission shall receive expenses, mileage and subsistence allowances as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

(f) The staff of the office of revisor of statutes, the Kansas legislative research department and other central legislative staff service agencies shall provide such assistance as may be requested by the commission.

(g) The commission shall submit a report to the legislature before January 9, 2015, with any findings and recommendations which the commission deems necessary, including the recommendation of any legisla-

tion. To carry out the recommendations of the commission, if necessary, one bill shall be introduced in the senate and one bill shall be introduced in the house of representatives, which such bills shall contain the exact same provisions, during the 2015 legislative session.

(h) The provisions of this section shall expire on January 12, 2015.

New Sec. 30. (a) As used in this section:

(1) “Applicant” means a person who:

(A) Is seeking licensure as a teacher at the secondary level in the state of Kansas; and

(B) has provided documentation to the state board verifying that the applicant has secured a commitment from the board of education of a school district to be hired as a teacher in such school district subject to receiving such licensure as a teacher.

(2) “Career technical education” shall have the same meaning as such term is defined in K.S.A. 72-4412, and amendments thereto.

(3) “Teacher preparation program” means professional education pedagogy coursework provided at an accredited college or university engaged in teacher preparation.

(4) “State board” means the state board of education.

(b) Notwithstanding any other provision of law, an applicant shall not be required to complete a teacher preparation program prior to licensure as a teacher if such applicant satisfies one of the following:

(1) The applicant holds a valid teaching license from another jurisdiction and has obtained the required scores on the praxis series tests as required by the state board for licensure;

(2) the applicant has obtained an industry-recognized certificate in a technical profession; has at least five years of work experience in such technical profession; and has secured a commitment from the board of education of a school district to be hired as a teacher to teach a career technical education course related to such technical profession; or

(3) the applicant has obtained at least a bachelor’s degree in the subject matter area of science, technology, engineering, mathematics, finance or accounting; has at least five years of work experience in such subject matter area; and has secured a commitment from the board of education of a school district to be hired as a teacher to teach in such subject matter area.

(c) An applicant shall only be authorized to teach in the subject or subjects specified on the face of the license.

(d) The state board shall adopt rules and regulations necessary to carry out the provisions of this section.

(e) This section shall be part of and supplemental to the provisions of article 13 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 31. Each school district shall provide written notice to each

teacher employed by such district of protections afforded teachers under the Kansas tort claims act pursuant to K.S.A. 75-6101 et seq., and amendments thereto. Such notice shall include information about the Kansas tort claims act, a teacher's coverage as an employee of the district under the Kansas tort claims act, the amount of liability coverage provided for claims which could give rise to an action under the Kansas tort claims act against a teacher and the procedure in which to request a defense under the Kansas tort claims act pursuant to K.S.A. 75-6108, and amendments thereto.

Sec. 32. K.S.A. 2013 Supp. 72-1127 is hereby amended to read as follows: 72-1127. (a) In addition to subjects or areas of instruction required by K.S.A. 72-1101, 72-1103, 72-1117, 72-1126 and 72-7535, and amendments thereto, every accredited school in the state of Kansas shall teach the subjects and areas of instruction adopted by the state board of education ~~as of January 1, 2005.~~

(b) Every accredited high school in the state of Kansas also shall teach the subjects and areas of instruction necessary to meet the graduation requirements adopted by the state board of education ~~as of January 1, 2005.~~

(c) Subjects and areas of instruction shall be designed by the state board of education to achieve the ~~following goals~~ goal established by the legislature ~~to allow for the~~ of providing each and every child with at least the following capacities:

~~(1) Development of sufficient oral and written communication skills which enable students to function in a complex and rapidly changing society;~~

~~(2) acquisition of sufficient knowledge of economic, social and political systems which enable students to understand the issues that affect the community, state and nation;~~

~~(3) development of students' mental and physical wellness;~~

~~(4) development of knowledge of the fine arts to enable students to appreciate the cultural and historical heritage of others;~~

~~(5) training or preparation for advanced training in either academic or vocational fields so as to enable students to choose and pursue life work intelligently;~~

~~(6) development of sufficient levels of academic or vocational skills to enable students to compete favorably in academics and the job market; and~~

~~(7) needs of students requiring special education services.~~

(1) Sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;

(2) sufficient knowledge of economic, social, and political systems to enable the student to make informed choices;

(3) sufficient understanding of governmental processes to enable the

*student to understand the issues that affect his or her community, state, and nation;*

*(4) sufficient self-knowledge and knowledge of his or her mental and physical wellness;*

*(5) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;*

*(6) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and*

*(7) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.*

(d) Nothing in this section shall be construed as relieving the state or school districts from other duties and requirements imposed by state or federal law including, but not limited to, at-risk programs for pupils needing intervention, programs concerning special education and related services and bilingual education.

New Sec. 33. (a) The state board of regents is hereby authorized for and on behalf of Emporia state university, to sell and convey, or exchange with the Emporia state university foundation for property of equal or greater value, all of the rights, title and interest in the following tract of real estate and any improvements thereon, located in the city of Emporia in Lyon county, Kansas, commonly known as Emporia State University Apartments at 1201 Triplett Drive, Emporia, Kansas 66801, and described as follows: Even lots 2 through 34 and all of now vacated alleys lying adjacent to said lots, lying south of the south right of way line of Interstate 35, all in Kellogg's addition to the City of Emporia, Lyon County, Kansas, according to the recorded plat thereof.

Also: Lots 1 through 24 in Norton's addition to the City of Emporia, Lyon County, Kansas, according to the recorded plat thereof, all of now vacated alleys lying adjacent to said lots, all of that part of now vacated Eskridge street and all of that part of now vacated Union Pacific railroad, lying west and south of East Street and south of the south right of way line of Interstate 35.

(b) Conveyance of such rights, title and interest in such tract of real estate, and any improvements thereon, shall be executed in the name of the state board of regents by its chairperson and chief executive officer. If a sale is made, not an exchange, the proceeds from sale of such tract of real estate, and any improvements thereon, shall be deposited in the state treasury to the credit of an appropriate account of the restricted fees fund of Emporia state university. The deed for such conveyance may be by warranty deed or by quitclaim deed as determined to be in the best interests of the state by the state board of regents in consultation with the attorney general.

(c) In the event that the state board of regents determines that the legal description of such tract of real estate described by this section is incorrect, the state board of regents may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general.

(d) No exchange and conveyance of real estate and improvements thereon as authorized by this section shall be made by the state board of regents until the deeds and conveyances have been reviewed and approved by the attorney general and, if warranty deeds are to be the instruments of conveyance, title reviews have been performed or title insurance has been obtained and the title opinion or the certificates of title insurance, as the case may be, have been approved by the attorney general.

(e) The conveyance authorized by this section shall not be subject to the provisions of K.S.A. 75-3043a or K.S.A. 2013 Supp. 75-6609, and amendments thereto.

Sec. 34. K.S.A. 2013 Supp. 72-1925 is hereby amended to read as follows: 72-1925. (a) Until such time as two or more public innovative districts have been granted authority to operate as public innovative districts pursuant to K.S.A. 2013 Supp. 72-1923, and amendments thereto, any board of education of a school district desiring to operate as a public innovative district shall submit a request for approval to operate as a public innovative district to the governor, the chairperson of the senate committee on education and the chairperson of the house of representatives committee on education and have such request approved by a majority of the three persons prior to submitting an application to the state board under K.S.A. 2013 Supp. 72-1923, and amendments thereto. The request for approval shall include such information as is required to be included on an application for authority to operate as a public innovative district under K.S.A. 2013 Supp. 72-1923, and amendments thereto.

(b) Upon the approval of the first two public innovative districts, the board of education of a school district desiring to operate as a public innovative district shall submit a request for approval to operate as a public innovative district to the coalition board and have such request approved by the coalition board prior to submitting any application to the state board under K.S.A. 2013 Supp. 72-1923, and amendments thereto. The coalition board, in its sole discretion, shall approve or deny the request. As part of its review of such request, the coalition board may make recommendations to the requesting school district to modify the request, and may consider any such modifications prior to making a final decision.

(c) The request for approval required by subsection (b) shall include such information as is required to be included on an application for authority to operate as a public innovative district under K.S.A. 2013 Supp.

72-1923, and amendments thereto. Copies of the request for approval shall be submitted to each public innovative district that is a member of the coalition. Within 30 days after receipt of the request for approval by the last member to receive such request, the coalition board shall meet to approve or deny the request. Notification of the approval or denial of a request shall be sent to the board of education of the requesting school district within 10 days after such decision. If the request is denied, the notification shall specify the reasons therefor. Within 30 days from the date a notification of denial is sent, the board of education of the requesting school district may submit a request to the coalition board for reconsideration of the request for approval and may submit an amended request for approval with the request for reconsideration. The coalition board shall act on the request for reconsideration within 30 days of receipt of such request.

(d) (1) *Except as provided by paragraph (2) of this subsection, no more than 10% of the school districts in the state shall operate as public innovative districts at any one time. Any request for approval submitted at such time shall be denied by the coalition board.*

(2) *An amount in excess of 10% but not to exceed 20% of school districts in the state may operate as public innovative districts if such school district operates a school within its district which is deemed to be either a title I focus school or a title I priority school as described by the state board under the elementary and secondary education act flexibility waiver, as amended in January of 2013. Any request for approval under this paragraph shall be reviewed by the coalition board for approval.*

Sec. 35. On and after July 1, 2014, K.S.A. 72-5333b is hereby amended to read as follows: 72-5333b. (a) The unified school district maintaining and operating a school on the Fort Leavenworth military reservation, being unified school district No. 207 of Leavenworth county, state of Kansas, shall have a governing body, which shall be known as the "Fort Leavenworth school district board of education" and which shall consist of three members who shall be appointed by, and serve at the pleasure of the commanding general of Fort Leavenworth. One member of the board shall be the president and one member shall be the vice-president. The commanding general, when making any appointment to the board, shall designate which of the offices the member so appointed shall hold. Except as otherwise expressly provided in this section, the district board and the officers thereof shall have and may exercise all the powers, duties, authority and jurisdiction imposed or conferred by law on unified school districts and boards of education thereof, except such school district shall not offer or operate any of grades 10 through 12.

(b) The board of education of the school district shall not have the power to issue bonds.

(c) Except as otherwise expressly provided in this subsection, the pro-

visions of the school district finance and quality performance act apply to the school district. As applied to the school district, the terms ~~local effort~~ *school financing sources* and federal impact aid shall not include any moneys received by the school district under subsection (3)(d)(2)(b) of public law 81-874. Any such moneys received by the school district shall be deposited in the general fund of the school district or, at the discretion of the board of education, in the capital outlay fund of the school district.

Sec. 36. On and after July 1, 2014, K.S.A. 2013 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a) (1) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{2}$ ) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as  $\frac{1}{2}$  pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least  $\frac{5}{8}$  time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any grades nine through 12 is at least  $\frac{5}{6}$  time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending a non-virtual school and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the pupil's attendance at the non-virtual school bears to full-time attendance. Except as provided by this section for preschool-aged exceptional children and virtual school pupils, a pupil enrolled in a district and attending special education and related services, provided for by the district shall be counted as one pupil.

A pupil enrolled in a district and attending special education and related services provided for by the district and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the pupil's attendance at the non-virtual school bears to full-time attendance. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as  $\frac{1}{2}$  pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as  $\frac{1}{2}$  pupil. A pupil in the custody of the secretary of ~~social and rehabilitation services for children and families~~ or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils. Except as provided in section 1 of chapter 76 of the 2009 Session Laws of the state of Kansas, and amendments thereto, a pupil in the custody of the secretary of ~~social and rehabilitation services for children and families~~ or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 409, Atchison, Kansas, but housed, maintained and receiving educational services at the youth residential center located on the grounds of the former Atchison juvenile correctional facility, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution or a psychiatric residential treatment facility shall not be counted.

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) (1) "At-risk pupils" means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

(2) *The term "at-risk pupils" shall not include any pupil: (A) Enrolled in any of the grades one through 12 who is in attendance less than full time; or (B) who is over 19 years of age. The provisions of this paragraph shall not apply to any pupil who has an individualized education program.*

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs.

(e) "Enrollment" means: (1) (A) Subject to the provisions of paragraph (1)(B), for districts scheduling the school days or school hours of

the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this paragraph (1), the number of pupils regularly enrolled in the district on September 20; (B) a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the district on September 20 and attending kindergarten or any of the grades one through 12 maintained by the district for at least one semester or two quarters or the equivalent thereof;

(2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of: (A) *The sum of:* (i) Enrollment in the preceding school year, *excluding pupils under subparagraph (A)(ii)*, minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled; and (ii) *adjusted enrollment in the preceding school year of any pupils participating in the tax credit for low income students scholarship program pursuant to sections 55 through 61, and amendments thereto, in the current school year, if any, plus adjusted enrollment in the preceding school year of preschool-aged at-risk pupils participating in the tax credit for low income students scholarship program pursuant to sections 55 through 61, and amendments thereto, in the current school years, if any such pupils were enrolled;* or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of: (i) Enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled; and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or

(3) the number of pupils as determined under K.S.A. 72-6447 or K.S.A. 2013 Supp. 72-6448, and amendments thereto.

(f) "Adjusted enrollment" means: (1) Enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, high density at-risk pupil weighting, if any, ~~medium density at-risk pupil weighting, if any, nonproficient pupil weighting, if any,~~ high enrollment weighting, if any, declining enrollment weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, cost of living weighting, if any, special education and related services weighting, and transportation weighting to enrollment; or (2) adjusted enroll-

ment as determined under K.S.A. 2013 Supp. 72-6457 or 72-6458, and amendments thereto.

(g) “At-risk pupil weighting” means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.

(h) “Program weighting” means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.

(i) “Low enrollment weighting” means an addend component assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having to which high enrollment weighting is assigned pursuant to K.S.A. 2013 Supp. 72-6442b, and amendments thereto.

(j) “School facilities weighting” means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities.

(k) “Transportation weighting” means an addend component assigned to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

(l) “Cost of living weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2013 Supp. 72-6449, and amendments thereto, apply on the basis of costs attributable to the cost of living in the district.

(m) “Ancillary school facilities weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

(n) “Juvenile detention facility” has the meaning ascribed thereto by 72-8187, and amendments thereto.

(o) “Special education and related services weighting” means an addend component assigned to enrollment of districts on the basis of costs attributable to provision of special education and related services for pupils determined to be exceptional children.

(p) “Virtual school” means any school or educational program that: (1) Is offered for credit; (2) uses distance-learning technologies which predominately use internet-based methods to deliver instruction; (3) involves instruction that occurs asynchronously with the teacher and pupil in separate locations; (4) requires the pupil to make academic progress

toward the next grade level and matriculation from kindergarten through high school graduation; (5) requires the pupil to demonstrate competence in subject matter for each class or subject in which the pupil is enrolled as part of the virtual school; and (6) requires age-appropriate pupils to complete state assessment tests.

(q) “Declining enrollment weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2013 Supp. 72-6451, and amendments thereto, apply on the basis of reduced revenues attributable to the declining enrollment of the district.

(r) “High enrollment weighting” means an addend component assigned to enrollment of districts pursuant to K.S.A. 2013 Supp. 72-6442b, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto.

(s) “High density at-risk pupil weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2013 Supp. 72-6455, and amendments thereto, apply.

(t) “Nonproficient pupil” means a pupil who is not eligible for free meals under the national school lunch act and who has scored less than proficient on the mathematics or reading state assessment during the preceding school year and who is enrolled in a district which maintains an approved proficiency assistance plan.

~~(u) “Nonproficient pupil weighting” means an addend component assigned to enrollment of districts on the basis of enrollment of nonproficient pupils pursuant to K.S.A. 2013 Supp. 72-6454, and amendments thereto.~~

~~(v) “Psychiatric residential treatment facility” has the meaning ascribed thereto by K.S.A. 72-8187, and amendments thereto.~~

~~(w) “Medium density at-risk pupil weighting” means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2013 Supp. 72-6459, and amendments thereto, apply.~~

Sec. 37. On and after July 1, 2014, K.S.A. 2013 Supp. 72-6410 is hereby amended to read as follows: 72-6410. (a) “State financial aid” means an amount equal to the product obtained by multiplying base state aid per pupil by the adjusted enrollment of a district.

(b) (1) ~~Subject to the other provisions of this subsection, “base state aid per pupil” means an amount of state financial aid per pupil. Subject to the other provisions of this subsection, the amount of base state aid per pupil is \$4,433 in school year 2008-2009 and \$4,492 in school year 2009-2010 and each school year thereafter appropriated by the legislature in a fiscal year for the designated year. The amount of base state aid per pupil for school year 2014-2015, and each school year thereafter, shall be at least \$3,838.~~

(2) The amount of base state aid per pupil is subject to reduction commensurate with any reduction under K.S.A. 75-6704, and amendments thereto, in the amount of the appropriation from the state general fund for general state aid. If the amount of appropriations for general state aid is insufficient to pay in full the amount each district is entitled to receive for any school year, the amount of base state aid per pupil for such school year is subject to reduction commensurate with the amount of the insufficiency.

(c) ~~“Local effort”~~ “*School financing sources*” means the sum of the following amounts:

(1) An amount equal to the proceeds from the ~~tax levied under authority of K.S.A. 72-6431, and amendments thereto,~~ and *state public school financing levy*;

(2) an amount equal to any unexpended and unencumbered balance remaining in the general fund of the district, except amounts received by the district and authorized to be expended for the purposes specified in K.S.A. 72-6430, and amendments thereto, ~~and~~;

(3) an amount equal to any unexpended and unencumbered balances remaining in the program weighted funds of the district, except any amount in the vocational education fund of the district if the district is operating an area vocational school, ~~and~~;

(4) an amount equal to any remaining proceeds from taxes levied under authority of K.S.A. 72-7056 and 72-7072, and amendments thereto, prior to the repeal of such statutory sections, ~~and~~;

(5) an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district under the provisions of subsection (a) of K.S.A. 72-1046a, and amendments thereto, ~~and~~;

(6) an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district pursuant to contracts made and entered into under authority of K.S.A. 72-6757, and amendments thereto, ~~and~~;

(7) an amount equal to the amount credited to the general fund in the current school year from amounts distributed in such year to the district under the provisions of articles 17 and 34 of chapter 12 of the Kansas Statutes Annotated and under the provisions of articles 42 and 51 of chapter 79 of the Kansas Statutes Annotated, and *amendments thereto*;

(8) an amount equal to the amount of payments received by the district under the provisions of K.S.A. 72-979, and amendments thereto; ~~and~~;

(9) an amount equal to the amount of a grant, if any, received by the district under the provisions of K.S.A. 72-983, and amendments thereto; and

(10) an amount equal to 70% of the federal impact aid of the district.

(d) “Federal impact aid” means an amount equal to the federally

qualified percentage of the amount of moneys a district receives in the current school year under the provisions of title I of public law 874 and congressional appropriations therefor, excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program. The amount of federal impact aid defined herein as an amount equal to the federally qualified percentage of the amount of moneys provided for the district under title I of public law 874 shall be determined by the state board in accordance with terms and conditions imposed under the provisions of the public law and rules and regulations thereunder.

(e) “*State public school financing levy*” means the tax levied under the authority of K.S.A. 72-6431, and amendments thereto.

Sec. 38. On and after July 1, 2014, K.S.A. 2013 Supp. 72-6415b is hereby amended to read as follows: 72-6415b. School facilities weighting may be assigned to enrollment of a district only if: (a) The district has adopted a local option budget in an amount equal to at least 25% of the amount of the state financial aid determined for the district in the current school year; and (b) *the contractual bond obligations incurred by the district was approved by the electors of the district at an election held on or before July 1, 2014.* School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

Sec. 39. On and after July 1, 2014, K.S.A. 72-6416 is hereby amended to read as follows: 72-6416. (a) In each school year, the state board shall determine entitlement of each district to general state aid for the school year as provided in this section.

(b) ~~The state board shall determine the amount of the district's local effort~~ *school financing sources* for the school year. If the amount of the ~~district's local effort~~ *school financing sources* is greater than the amount of state financial aid determined for the district for the school year, the district shall not be entitled to general state aid. If the amount of the ~~district's local effort~~ *school financing sources* is less than the amount of state financial aid determined for the district for the school year, the state board shall subtract the amount of the ~~district's local effort~~ *school financing sources* from the amount of state financial aid. The remainder is the amount of general state aid the district is entitled to receive for the current school year.

(c) The provisions of this section shall take effect and be in force from and after July 1, 1992.

Sec. 40. On and after July 1, 2014, K.S.A. 2013 Supp. 72-6417 is hereby amended to read as follows: 72-6417. (a) The distribution of general state aid under this act shall be made in accordance with appropriation acts each year as provided in this section.

(b) (1) In the months of July through May of each school year, the

state board shall determine the amount of general state aid which will be required by each district to maintain operations in each such month. In making such determination, the state board shall take into consideration the district's access to ~~local effort~~ *school financing* sources and the obligations of the general fund which must be satisfied during the month. The amount determined by the state board under this provision is the amount of general state aid which will be distributed to the district in the months of July through May;

(2) in the month of June of each school year, subject to the provisions of subsection (d), payment shall be made of the full amount of the general state aid entitlement determined for the school year, less the sum of the monthly payments made in the months of July through May.

(c) The state board of education shall prescribe the dates upon which the distribution of payments of general state aid to school districts shall be due. Payments of general state aid shall be distributed to districts once each month on the dates prescribed by the state board. The state board shall certify to the director of accounts and reports the amount due as general state aid to each district in each of the months of July through June. Such certification, and the amount of general state aid payable from the state general fund, shall be approved by the director of the budget. The director of accounts and reports shall draw warrants on the state treasurer payable to the district treasurer of each district entitled to payment of general state aid, pursuant to vouchers approved by the state board. Upon receipt of such warrant, each district treasurer shall deposit the amount of general state aid in the general fund, except that, an amount equal to the amount of federal impact aid not included in the ~~local effort~~ *school financing sources* of a district may be disposed of as provided in subsection (a) of K.S.A. 72-6427, and amendments thereto.

(d) If any amount of general state aid that is due to be paid during the month of June of a school year pursuant to the other provisions of this section is not paid on or before June 30 of such school year, then such payment shall be paid on or after the ensuing July 1, as soon as moneys are available therefor. Any payment of general state aid that is due to be paid during the month of June of a school year and that is paid to school districts on or after the ensuing July 1 shall be recorded and accounted for by school districts as a receipt for the school year ending on the preceding June 30.

Sec. 41. On and after July 1, 2014, K.S.A. 2013 Supp. 72-6431 is hereby amended to read as follows: 72-6431. (a) The board of each district shall levy an ad valorem tax upon the taxable tangible property of the district in the school years specified in subsection (b) for the purpose of:

- (1) Financing that portion of the district's general fund budget which is not financed from any other source provided by law;
- (2) paying a portion of the costs of operating and maintaining public

schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the school year 2013-2014 and school year 2014-2015.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the general fund of the district.

(d) On June 6 of each year, the amount, if any, by which a district's ~~local effort~~ *school financing sources* exceeds the amount of the district's state financial aid, as determined by the state board, shall be remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(e) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

Sec. 42. K.S.A. 2013 Supp. 72-6433 is hereby amended to read as follows: 72-6433. (a) As used in this section:

(1) "State prescribed percentage" means ~~31%~~ 33% of state financial aid of the district in the current school year.

(2) "Authorized to adopt a local option budget" means that a district has adopted a resolution ~~under this section, has published the same, and either the resolution was not protested or it was protested and an election was held by which the adoption of a local option budget was approved pursuant to subsection (c), (d) or (e).~~

(3) "State financial aid" shall have the meaning provided in K.S.A. 72-6410, and amendments thereto, except that the term shall not include virtual school state aid, as described in K.S.A. 72-3715, and amendments thereto.

(b) In each school year, the board of any district may adopt a local option budget which does not exceed the state prescribed percentage.

(c) Subject to the limitation of subsection (b), in each school year, the board of any district may adopt, by resolution, a local option budget in an amount not to exceed:

(1) (A) The amount which the board was authorized to adopt in accordance with the provisions of this section in effect prior to its amendment by this act; plus

(B) the amount which the board was authorized to adopt pursuant to any resolution currently in effect; plus

(C) the amount which the board was authorized to adopt pursuant to K.S.A. 72-6444, and amendments thereto, if applicable to the district; or

(2) the state-wide average for the preceding school year as determined by the state board pursuant to subsection ~~(j)~~ (k).

Except as provided by subsection (e), the adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. Such resolution shall be effective upon adoption and shall require no other procedure, authorization or approval.

(d) *Except as provided by subsection (e)*, if the board of a district desires to increase its local option budget authority above the amount authorized under subsection (c) or if the board was not authorized to adopt a local option budget in 2006-2007, the board may adopt, by resolution, such budget in an amount not to exceed the state prescribed percentage. The adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. The resolution shall be published at least once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year in an amount not to exceed \_\_\_\_% of the amount of state financial aid. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Clerk of the board of education.

All of the blanks in the resolution shall be filled as is appropriate. If a sufficient petition is not filed, the board may adopt a local option budget.

If a sufficient petition is filed, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto. If the board fails to notify the county election officer within 30 days after a sufficient petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(e) (1) *Except as provided by paragraphs (2) and (3), any resolution authorizing the adoption of a local option budget in excess of 30% of the state financial aid of the district in the current school year shall not become effective unless such resolution has been submitted to and approved by a majority of the qualified electors of the school district voting at an election called and held thereon. The election shall be called and held in the manner provided by K.S.A. 10-120, and amendments thereto, except that such election shall be a mail ballot election conducted in accordance with K.S.A. 25-431 et seq., and amendments thereto. Any such election shall be held on or before August 1 of the initial school year for which such resolution was adopted.*

(2) *For school year 2014-2015, any board of education of a school district which has adopted a local option budget in excess of 30% of state financial aid in the current school year on or before June 30, 2014, may adopt a second resolution in an amount not to exceed 2% of state financial aid, provided that the aggregate local option budget authority for the district does not exceed 33% of state financial aid in the current school year. The adoption of a second resolution pursuant to this paragraph shall require a majority vote of the members of the board and shall specifically state in such resolution that it shall expire on June 30, 2015. Such resolution shall be effective upon adoption and shall require no other procedure, authorization or approval.*

(3) *The board of unified school district no. 207, as described in K.S.A. 72-5333b, and amendments thereto, may adopt a local option budget in excess of 30% of state financial aid of the district in the current school year in accordance with subsection (d).*

(f) Unless specifically stated otherwise in the resolution, the authority to adopt a local option budget shall be continuous and permanent. The board of any district which is authorized to adopt a local option budget may choose not to adopt such a budget or may adopt a budget in an amount less than the amount authorized. If the board of any district whose authority to adopt a local option budget is not continuous and permanent refrains from adopting a local option budget, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget.

(g) The board of any district may initiate procedures to renew or increase the authority to adopt a local option budget at any time during a school year after the tax levied pursuant to K.S.A. 72-6435, and amendments thereto, is certified to the county clerk under any existing authorization.

(h) The board of any district that is authorized to adopt a local option budget prior to the effective date of this act under a resolution which authorized the adoption of such budget in accordance with the provisions of this section in effect prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(i) Any resolution adopted pursuant to this section may revoke or repeal any resolution previously adopted by the board. If the resolution does not revoke or repeal previously adopted resolutions, all resolutions which are in effect shall expire on the same date. The maximum amount of the local option budget of a school district under all resolutions in effect shall not exceed the state prescribed percentage in any school year.

(j) (1) There is hereby established in every district that adopts a local option budget a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under paragraph (3) and subsection (e) of K.S.A. 72-6434, and amendments thereto, amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to any program weighted fund or categorical fund of the district. Amounts in the supplemental general fund attributable to any percentage over 25% of state financial aid determined for the current school year may be transferred to the capital improvements fund of the district and the capital outlay fund of the district if such transfers are specified in the resolution authorizing the adoption of a local option budget in excess of 25%.

(3) Amounts in the supplemental general fund may not be expended for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) (A) Except as provided in paragraph (B), any unexpended budget remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be maintained in such fund.

(B) If the district received supplemental general state aid in the school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option

budget of the district for the school year and multiply the total amount of the unexpended budget remaining by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district or remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(k) Each year the state board of education shall determine the state-wide average percentage of local option budgets legally adopted by school districts for the preceding school year.

(l) The provisions of this section shall be subject to the provisions of K.S.A. 2013 Supp. 72-6433d, and amendments thereto.

Sec. 43. K.S.A. 2013 Supp. 72-6433d is hereby amended to read as follows: 72-6433d. (a) (1) The provisions of this subsection shall apply in any school year in which the amount of base state aid per pupil is \$4,433 or less.

(2) *Except as provided in paragraph (3), the board of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the base state aid per pupil was \$4,433, or which does not exceed the local option budget as calculated pursuant to K.S.A. 72-6433, and amendments thereto, whichever is greater.*

(3) *For school years 2014-2015 and 2015-2016, the board of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the base state aid per pupil was \$4,490, or which does not exceed the local option budget as calculated pursuant to K.S.A. 72-6433, and amendments thereto, whichever is greater.*

(b) The board of education of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or which does not exceed the local option budget as calculated pursuant to K.S.A. 72-6433, and amendments thereto, whichever is greater.

(c) The board of education of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b).

(d) To the extent that the provisions of K.S.A. 72-6433, and amendments thereto, conflict with this section, this section shall control.

(e) The provisions of this section shall expire on June 30, ~~2014~~ 2017.

Sec. 44. On and after July 1, 2014, K.S.A. 2013 Supp. 72-6441 is hereby amended to read as follows: 72-6441. (a) (1) The board of any district to which the provisions of this subsection apply may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state court of tax appeals under this subsection

for the purpose of financing the costs incurred by the state that are directly attributable to assignment of ancillary school facilities weighting to enrollment of the district. The state court of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the difference between the amount of costs directly attributable to commencing operation of one or more new school facilities and the amount that is financed from any other source provided by law for such purpose, including any amount attributable to assignment of school facilities weighting to enrollment of the district for each school year in which the district is eligible for such weighting. If the district is not eligible, or will be ineligible, for school facilities weighting in any one or more years during the two-year period for which the district is authorized to levy a tax under this subsection, the state court of tax appeals may authorize the district to make a levy; in such year or years of ineligibility, which will produce an amount that is not greater than the actual amount of costs attributable to commencing operation of the facility or facilities.

(2) The state court of tax appeals shall certify to the state board of education the amount authorized to be produced by the levy of a tax under subsection (a).

(3) The state court of tax appeals may adopt rules and regulations necessary to effectuate the provisions of this subsection, including rules and regulations relating to the evidence required in support of a district's claim that the costs attributable to commencing operation of one or more new school facilities are in excess of the amount that is financed from any other source provided by law for such purpose.

(4) The provisions of this subsection apply to any district that: (A) Commenced operation of one or more new school facilities in the school year preceding the current school year or has commenced or will commence operation of one or more new school facilities in the current school year or any or all of the foregoing; (B) is authorized to adopt and has adopted a local option budget which is at least equal to ~~that amount required to qualify for school facilities weighting under K.S.A. 2013 Supp. 72-6415b, and amendments thereto~~ *25% of the amount of state financial aid determined for the district in the current school year*; and (C) is experiencing extraordinary enrollment growth as determined by the state board of education.

(b) The board of any district that has levied an ad valorem tax on the taxable tangible property of the district each year for a period of two years under authority of subsection (a) may continue to levy such tax under authority of this subsection each year for an additional period of time not to exceed six years in an amount not to exceed the amount computed by the state board of education as provided in this subsection if the board of the district determines that the costs attributable to commencing operation of one or more new school facilities are significantly greater than the costs attributable to the operation of other school facilities in the

district. The tax authorized under this subsection may be levied at a rate which will produce an amount that is not greater than the amount computed by the state board of education as provided in this subsection. In computing such amount, the state board shall:

(1) Determine the amount produced by the tax levied by the district under authority of subsection (a) in the second year for which such tax was levied and add to such amount the amount of general state aid directly attributable to school facilities weighting that was received by the district in the same year;

(2) compute 90% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the first year of the six-year period for which the district may levy a tax under authority of this subsection;

(3) compute 75% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the second year of the six-year period for which the district may levy a tax under authority of this subsection;

(4) compute 60% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the third year of the six-year period for which the district may levy a tax under authority of this subsection;

(5) compute 45% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the fourth year of the six-year period for which the district may levy a tax under authority of this subsection;

(6) compute 30% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the fifth year of the six-year period for which the district may levy a tax under authority of this subsection; and

(7) compute 15% of the amount of the sum obtained under paragraph (1), which computed amount is the amount the district may levy in the sixth year of the six-year period for which the district may levy a tax under authority of this subsection.

In determining the amount produced by the tax levied by the district under authority of subsection (a), the state board shall include any moneys which have been apportioned to the ancillary facilities fund of the district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

(c) The proceeds from the tax levied by a district under authority of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

Sec. 45. K.S.A. 2013 Supp. 72-8254 is hereby amended to read as follows: 72-8254. (a) This section shall be known and may be cited as the Kansas uniform financial accounting and reporting act.

(b) As used in this section:

(1) “Budget summary” means a *one-page* summary of the official budget adopted by the board of education of the school district, and shall include, but is not limited to, graphs depicting the total expenditures in the budget by category, supplemental and general fund expenditures, instruction expenditures, enrollment figures, mill rates by fund and average salaries. For purposes of this section, ~~the a one-page~~ budget at a glance format developed by the state board, and any successor format shall be deemed a budget summary, provided it complies with the requirements of this section.

(2) “Reporting system” means the uniform reporting system, including a uniform chart of accounts, developed by the state board as required by this section.

(3) “School district” means a unified school district organized and operated under the laws of this state.

(4) “State board” means the state board of education.

(c) The state board shall develop and maintain a uniform reporting system for the receipts and expenditures of school districts. The accounting records maintained by each school district shall be coordinated with the uniform reporting system. Each school district shall record the receipts and expenditures of the district in accordance with a uniform classification of accounts or chart of accounts and reports as shall be prescribed by the state board. Each school district shall submit such reports and statements as may be required by the state board. The state board shall design, revise and direct the use of accounting records and fiscal procedures and prescribe uniform classifications for receipts and expenditures for all school districts. The reporting system shall include all funds held by a school district regardless of the source of the moneys held in such funds, including, but not limited to, all funds funded by fees or other sources of revenue not derived from tax levies. The state board shall prescribe the necessary forms to be used by school districts in connection with such uniform reporting system.

(d) The reporting system developed by the state board shall be developed in such a manner that allows school districts to record and report any information required by state or federal law.

(e) The reporting system shall provide records showing by funds, accounts and other pertinent classifications, the amounts appropriated, the estimated revenues, actual revenues or receipts, the amounts available for expenditure, the total and itemized expenditures, the unencumbered cash balances, excluding state aid receivable, actual balances on hand and the unencumbered balances of allotments or appropriations for each school district.

(f) The reporting system shall allow a person to search the data and allow for the comparison of data by school district.

(g) Each school district shall annually submit a report to the state board on all construction activity undertaken by the school district which was financed by the issuance of bonds and which such bonds have not matured. Such report shall include all revenue receipts, all expenditures of bond proceeds authorized by law, the dates for commencement and completion of such construction activity, the estimated cost and the actual cost of such construction activity. The information provided in the report shall be in a form so as to readily identify such information with a specific construction project. Such report shall be submitted in a form and manner prescribed by the state board in accordance with the provisions of this section.

(h) From and after July 1, 2012, the board of education of each school district shall record and report the receipts and expenditures of the district in the manner prescribed by the state board in accordance with this section.

(i) (1) Each school district shall annually publish on such district's internet website:

(A) A copy of form 150, estimated legal maximum general fund budget, or any successor document containing the same or similar information, that was submitted by such district to the state board of education for the immediately preceding school year; and

(B) the budget summary for the current school year and actual expenditures for the immediately preceding two school years showing total dollars net of transfers and dollars per pupil for each of the following:

- ~~(1)~~(i) Function 1000, instruction;
- ~~(2)~~(ii) function 2100, student support;
- ~~(3)~~(iii) function 2200, instructional staff support;
- ~~(4)~~(iv) functions 2300 through 2500, administration;
- ~~(5)~~(v) function 2600, operation and maintenance;
- ~~(6)~~(vi) function 2700, transportation;
- ~~(7)~~(vii) function 3100, food service;
- ~~(8)~~(viii) functions 2900, 3200 and 3300, other current spending;
- ~~(9)~~(ix) function 4000, capital outlay;
- ~~(10)~~(x) function 5100, debt service;
- ~~(11)~~(xi) the total expenditures which is the sum of the amounts in paragraphs ~~(1)~~ clauses (i) through ~~(10)~~(x);
- ~~(12)~~(xii) the spending allocated to function 1000, instruction, excluding capital outlay and debt service expenditures, as a percentage of total expenditures;
- ~~(13)~~(xiii) the spending allocated to function 1000, instruction, excluding capital outlay and debt service expenditures, as a percentage of current spending, which is the sum of expenditures for functions 1000

through 3300 less capital outlay and debt service expenditures included in any of those functions; and

~~(14)~~(xiv) the revenue in total dollars net of transfers both in total and disaggregated to show the amount of revenue received from local, state and federal revenue sources.

(2) For purposes of subsection (i)(1)(B), all per pupil amounts shall be calculated using the full-time equivalent enrollment of the school district. All function categories and other accounting categories shall refer to those same categories as established and required for financial accounting purposes by the state board as published in the Kansas state department of education's Kansas accounting handbook for unified school districts, as published in August 2012, or later versions as established in rules and regulations adopted by the state board.

~~(2)~~(3) Publications required by this subsection shall be published with an easily identifiable link located on such district's website homepage.

(4) *Publications required by this subsection shall be made available to the public at every meeting held by the board of education of each school district when the board is discussing the district's budget or any other school finance matter.*

(j) (1) The department of education shall annually publish on its internet website:

(A) All of the publications required under subsection (i); and

(B) the following expenditures for each school district on a per pupil basis:

(i) Total expenditures;

(ii) capital outlay expenditures;

(iii) bond and interest expenditures; and

(iv) all other expenditures not included in (ii) or (iii).

(2) Publications required by this subsection shall be published with an easily identifiable link located on the department's website homepage.

Sec. 46. K.S.A. 72-8809 is hereby amended to read as follows: 72-8809. The board of education of any school district which has made a tax levy under K.S.A. 72-8801, *and amendments thereto*, may at any time ~~after the final levy is certified to the county clerk under any current authorization~~, initiate procedures to renew its authority to make ~~a like~~ an annual tax levy in the amount and upon the conditions and in the manner specified in ~~said~~ K.S.A. 72-8801, *and at five-year intervals thereafter may in like manner and on like conditions renew such levy for successive five-year periods and amendments thereto. Except as otherwise provided by its terms, any initial resolution adopted pursuant to K.S.A. 72-8801, and amendments thereto, shall remain in full force and effect until such time as a second resolution becomes effective, at which time the initial resolution shall become null and void.*

Sec. 47. K.S.A. 2013 Supp. 72-8814 is hereby amended to read as

follows: 72-8814. (a) There is hereby established in the state treasury the school district capital outlay state aid fund. Such fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

(b) In each school year, each school district which levies a tax pursuant to K.S.A. 72-8801 et seq., and amendments thereto, shall be entitled to receive payment from the school district capital outlay state aid fund in an amount determined by the state board of education as provided in this subsection. The state board of education shall:

(1) Determine the amount of the assessed valuation per pupil (AVPP) of each school district in the state and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this section;

(2) determine the median AVPP of all school districts;

(3) prepare a schedule of dollar amounts using the amount of the median AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts and shall range downward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the lowest AVPP of all school districts;

(4) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median AVPP shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval above the amount of the median AVPP, and increasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval below the amount of the median AVPP. Except as provided by K.S.A. 2013 Supp. 72-8814b, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district, except that the state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 25%;

(5) determine the amount levied by each school district pursuant to K.S.A. 72-8801 et seq., and amendments thereto;

(6) multiply the amount computed under (5), but not to exceed 8 mills, by the applicable state aid percentage factor. The product is the amount of payment the school district is entitled to receive from the school district capital outlay state aid fund in the school year.

(c) The state board shall certify to the director of accounts and reports the entitlements of school districts determined under the provisions of subsection (b), and an amount equal thereto shall be transferred by the director from the state general fund to the school district capital outlay

state aid fund for distribution to school districts, ~~except that no transfers shall be made from the state general fund to the school district capital outlay state aid fund during the fiscal years ending June 30, 2013, June 30, 2014, June 30, 2015, or June 30, 2016.~~ All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund.

(d) Payments from the school district capital outlay state aid fund shall be distributed to school districts at times determined by the state board of education. The state board of education shall certify to the director of accounts and reports the amount due each school district entitled to payment from the fund, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the capital outlay fund of the school district to be used for the purposes of such fund.

(e) Amounts transferred to the capital outlay fund of a school district as authorized by K.S.A. 72-6433, and amendments thereto, shall not be included in the computation when determining the amount of state aid to which a district is entitled to receive under this section.

Sec. 48. On and after July 1, 2014, K.S.A. 72-1412 is hereby amended to read as follows: 72-1412. As used in K.S.A. 72-1412 through 72-1415, and amendments thereto:

(a) “Mentor teacher program” means a program established and maintained by the board of education of a school district for the purpose of providing probationary teachers with professional support and the continuous assistance of an on-site mentor teacher.

(b) “Mentor teacher” means a certificated teacher who has completed at least three consecutive school years of employment in the school district, has been selected by the board of education of the school district on the basis of having demonstrated exemplary teaching ability as indicated by criteria established by the state board of education, and has participated in and successfully completed a training program for mentor teachers provided for by the board of education of the school district in accordance with guidelines prescribed by the state board of education. The primary function of a mentor teacher shall be to provide probationary teachers with professional support and assistance. A mentor teacher may provide assistance and guidance to not more than two probationary teachers.

(c) “Probationary teacher” means a certificated teacher ~~to whom the provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, do not apply~~ *who has completed less than three consecutive school years of employment in the school district.*

Sec. 49. On and after July 1, 2014, K.S.A. 2013 Supp. 72-5436 is hereby amended to read as follows: 72-5436. As used in this act: (a)

“Teacher” means ~~any professional employee who is required to hold a certificate to teach in any school district, and any teacher or instructor in any area vocational-technical school~~ *technical college, the institute of technology at Washburn university or community college.* The term “teacher” does not include within its meaning ~~any supervisors, principals or superintendents or any persons employed under the authority of K.S.A. 72-8202b, and amendments thereto, or any persons employed in an administrative capacity by any area vocational-technical school~~ *technical college, the institute of technology at Washburn university or community college;* ~~or commencing in the 2006-2007 school year, any person who is a retiree from school employment of the Kansas public employees retirement system.~~

(b) “Board” means ~~the board of education of any school district, the board of control of any area vocational-technical school~~ *governing body of any technical college or the institute of technology at Washburn university,* and the board of trustees of any community college.

Sec. 50. On and after July 1, 2014, K.S.A. 2013 Supp. 72-5437 is hereby amended to read as follows: 72-5437. (a) All contracts of employment of teachers, ~~as defined in K.S.A. 72-5436, and amendments thereto,~~ except contracts entered into under the provisions of K.S.A. 72-5412a, and amendments thereto, shall be deemed to continue for the next succeeding school year unless written notice of termination or nonrenewal is served as provided in this subsection. Written notice to terminate a contract may be served by a board upon any teacher prior to the time the contract has been completed, and written notice of intention to nonrenew a contract shall be served by a board upon any teacher on or before the third Friday in May. A teacher shall give written notice to a board that the teacher does not desire continuation of a contract on or before the 14th calendar day following the third Friday in May or, if applicable, not later than 15 days after the issuance of a unilateral contract as authorized by K.S.A. 72-5428a, and amendments thereto, whichever is the later date.

(b) Terms of a contract may be changed at any time by mutual consent of both a teacher and a board.

(c) As used in this section:

(1) “Board of education” or “board” means *the board of education of any school district, the governing body of any technical college or the institute of technology at Washburn university, and the board of trustees of any community college.*

(2) “Professional employee” means *any person employed by a board of education in a position which requires a certificate issued by the state board of education or employed by a board of education in a professional, educational or instructional capacity.*

(3) (A) “Teacher” means ~~(1) a teacher as defined by K.S.A. 72-5436, and amendments thereto, and (2) any professional employee who is re-~~

*quired to hold a certificate to teach in any school district, and any teacher or instructor in any technical college, the institute of technology at Washburn university or any community college, including any professional employee who is a retirant from school employment of the Kansas public employees retirement system.*

*(B) The term “teacher” does not include any supervisors, principals or superintendents or any persons employed under the authority of K.S.A. 72-8202b, and amendments thereto, or any persons employed in any administrative capacity by any technical college, the institute of technology at Washburn university or any community college.*

Sec. 51. On and after July 1, 2014, K.S.A. 2013 Supp. 72-5438 is hereby amended to read as follows: 72-5438. (a) Whenever a teacher is given written notice of intention by a board to not renew or to terminate the contract of the teacher as provided in K.S.A. 72-5437, and amendments thereto, the written notice of the proposed nonrenewal or termination shall include: (1) A statement of the reasons for the proposed nonrenewal or termination; and (2) a statement that the teacher may have the matter heard by a hearing officer upon written request filed with ~~the clerk of the board of education or the board of control or the secretary of the board of trustees~~ within 15 calendar days from the date of such notice of nonrenewal or termination.

(b) Within 10 calendar days after the filing of any written request of a teacher to be heard as provided in subsection (a), the board shall notify the commissioner of education that a list of qualified hearing officers is required. Such notice shall contain the mailing address of the teacher. Within 10 days after receipt of notification from the board, the commissioner shall provide to the board and to the teacher, a list of five randomly selected, qualified hearing officers.

(c) Within five days after receiving the list from the commissioner, each party shall eliminate two names from the list, and the remaining individual on the list shall serve as hearing officer. In the process of elimination, each party shall eliminate no more than one name at a time, the parties alternating after each name has been eliminated. The first name to be eliminated shall be chosen by the teacher within five days after the teacher receives the list. The process of elimination shall be completed within five days thereafter.

(d) Either party may request that one new list be provided within five days after receiving the list. If such a request is made, the party making the request shall notify the commissioner and the other party, and the commissioner shall generate a new list and distribute it to the parties in the same manner as the original list.

(e) In lieu of using the process provided in subsections (b) and (c), if the parties agree, they may make a request to the American arbitration association for an arbitrator to serve as the hearing officer. Any party

desiring to use this alternative procedure shall so notify the other party in the notice required under subsection (a). If the parties agree to use this procedure, the parties shall make a joint request to the American arbitration association for a hearing officer within 10 days after the teacher files a request for a hearing. If the parties choose to use this procedure, the parties shall each pay one-half of the cost of the arbitrator and of the arbitrator's expenses.

(f) The commissioner of education shall compile and maintain a list of hearing officers comprised of residents of this state who are attorneys at law. Such list shall include a statement of the qualifications of each hearing officer.

(g) Attorneys interested in serving as hearing officers under the provisions of this act shall submit an application to the commissioner of education. The commissioner shall determine if the applicant is eligible to serve as a hearing officer pursuant to the provisions of subsection (h).

(h) An attorney shall be eligible for appointment to the list if the attorney has: (1) Completed a minimum of 10 hours of continuing legal education credit in the area of education law, due process, administrative law or employment law within the past five years; or (2) previously served as the chairperson of a due process hearing committee prior to the effective date of this act. An attorney shall not be eligible for appointment to the list if the attorney has been employed to represent a board or a teacher in a due process hearing within the past five years.

Sec. 52. On and after July 1, 2014, K.S.A. 72-5439 is hereby amended to read as follows: 72-5439. The hearing provided for under K.S.A. 72-5438, and amendments thereto, shall commence within 45 calendar days after the hearing officer is selected unless the hearing officer grants an extension of time. The hearing shall afford procedural due process, including the following:

(a) The right of each party to have counsel of such party's own choice present and to receive the advice of such counsel or other person whom such party may select;

(b) the right of each party or such party's counsel to cross-examine any person who provides information for the consideration of the hearing officer, except those persons whose testimony is presented by affidavit;

(c) the right of each party to present such party's own witnesses in person, or their testimony by affidavit or deposition, except that testimony of a witness by affidavit may be presented only if such witness lives more than 100 miles from the location of the ~~unified school district office, area vocational-technical school~~ *technical college, institute of technology at Washburn university* or community college, or is absent from the state, or is unable to appear because of age, illness, infirmity or imprisonment. When testimony is presented by affidavit the same shall be served upon ~~the clerk of the board of education or the board of control, or the secretary~~

of the board of trustees; or the agent of the board and upon the teacher in person or by first-class mail to the address of the teacher which is on file with the board not less than 10 calendar days prior to presentation to the hearing officer;

(d) the right of the teacher to testify in the teacher's own behalf and give reasons for the teacher's conduct, and the right of the board to present its testimony through such persons as the board may call to testify in its behalf and to give reasons for its actions, rulings or policies;

(e) the right of the parties to have an orderly hearing; and

(f) the right of the teacher to a fair and impartial decision based on substantial evidence.

Sec. 53. On and after July 1, 2014, K.S.A. 2013 Supp. 72-5445 is hereby amended to read as follows: 72-5445. (a) ~~(1) Subject to the provisions of subsections (b) and (c),~~ The provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, apply only to: ~~(A) (1) Teachers who have completed not less than three consecutive years of employment, and been offered a fourth contract, in the school district, area vocational-technical school technical college, institute of technology at Washburn university or community college by which any such teacher is currently employed; and (B) (2) teachers who have completed not less than two consecutive years of employment, and been offered a third contract, in the school district, area vocational-technical school technical college, institute of technology at Washburn university or community college by which any such teacher is currently employed if at any time prior to the current employment the teacher has completed the years of employment requirement of subpart (A) paragraph (1) of this subsection in any school district, area vocational-technical school technical college, the institute of technology at Washburn university or community college in this state.~~

~~(2)(b)~~ Any board may waive, at any time, the years of employment requirements of ~~provision subsection (a)(1)~~ for any teacher employed by it.

~~(3)(c)~~ The provisions of this subsection are subject to the provisions of K.S.A. 72-5446, and amendments thereto.

~~(b)~~ The provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, do not apply to any teacher whose license has been non-renewed or revoked by the state board of education for the reason that the teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; (2) has been convicted of a felony described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Anno-

tated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto, or an act described in K.S.A. 21-3412, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5413, or K.S.A. 21-3412a, prior to its repeal, or K.S.A. 2013 Supp. 21-5414, and amendments thereto, if the victim is a minor or student; (3) has been convicted of a felony described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6419 through 21-6421, and amendments thereto, or has been convicted of an act described in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5505, and amendments thereto, if the victim is a minor or student; (4) has been convicted of any act described in any section of article 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto; (5) has been convicted of a felony described in article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the Kansas Statutes Annotated or subsection (a)(6) of K.S.A. 2013 Supp. 21-6412, and amendments thereto; (6) has been convicted of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013 Supp. 21-5301, and amendments thereto, to commit any act specified in this subsection; (7) has been convicted of any act which is described in K.S.A. 21-4301, 21-4301a or 21-4301e, prior to their repeal, or K.S.A. 2013 Supp. 21-6401 or 21-6402, and amendments thereto; (8) has been convicted in another state or by the federal government of an act similar to any act described in this subsection; or (9) has entered into a criminal diversion agreement after having been charged with any offense described in this subsection.

(c) (1) — The provisions of this subsection shall apply to a teacher described in subsection (a)(1)(A) of this section. After a teacher has completed not less than three consecutive years of employment and if the requirements of paragraph (2) have been satisfied, the board of education of the school district and the teacher may enter into an agreement under which the school district may offer the teacher a contract of employment for a fourth year or a fourth and fifth year and the teacher agrees that the provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto, shall not apply to such teacher unless a sixth contract is offered to the teacher.

(2) — A school district offering a contract pursuant to this subsection shall prepare a written plan of assistance for the teacher being offered such contract and shall submit such plan of assistance to the teacher at the time such contract is offered. Prior to signing or rejecting a contract, the teacher shall have not less than 48 hours from the time the contract is offered to review and consider the contract and the plan of assistance. The plan of assistance shall be written to address those areas of teacher

performance where the school district believes the teacher's performance is less than satisfactory.

(3) ~~If an agreement under this subsection is reached by the teacher and the school district, then the school district shall file annually a report with the state board of education which shall contain the following information in subparagraphs (A) through (D):~~

~~(A) The number of teachers that were offered by the school district a contract under subsection (a)(1)(A) of this section;~~

~~(B) the number of teachers that were offered by the school district an agreement under this subsection;~~

~~(C) the number of teachers that accepted the agreement under this subsection;~~

~~(D) the number of teachers that were not offered by the school district either a contract under subsection (a)(1)(A) of this section or an agreement under this subsection.~~

~~(4) In addition to the reports required under paragraph (3), each school district shall report annually to the state board of education, the committee on education of the senate and the committee on education of the house of representatives the number of contracts issued under subsection (a) which result in the application of K.S.A. 72-5438 through 72-5443, and amendments thereto, to the teachers who receive such contracts and the year of employment for which the contract is issued.~~

~~(5) The provisions of this subsection shall expire on July 1, 2016.~~

Sec. 54. On and after July 1, 2014, K.S.A. 72-5446 is hereby amended to read as follows: 72-5446. In the event any teacher, ~~as defined in K.S.A. 72-5436, and amendments thereto,~~ alleges that the teacher's contract has been nonrenewed by reason of the teacher having exercised a constitutional right, the following procedure shall be implemented:

(a) The teacher alleging an abridgment by the board of a constitutionally protected right shall notify the board of the allegation within 15 days after receiving the notice of intent to not renew or terminate the teacher's contract. Such notice shall specify the nature of the activity protected, and the times, dates, and places of such activity;

(b) the hearing officer provided for by K.S.A. 72-5438, and amendments thereto, shall thereupon be selected and shall decide if there is substantial evidence to support the teacher's claim that the teacher's exercise of a constitutionally protected right was the reason for the nonrenewal;

(c) if the hearing officer determines that there is no substantial evidence to substantiate the teacher's claim of a violation of a constitutionally protected right, the board's decision to not renew the contract shall stand;

(d) if the hearing officer determines that there is substantial evidence to support the teacher's claim, the board shall be required to submit to

the hearing officer any reasons which may have been involved in the nonrenewal;

(e) if the board presents any substantial evidence to support its reasons, the board's decision not to renew the contract shall be upheld.

New Sec. 55. The provisions of sections 55 through 61, and amendments thereto, shall be known and may be cited as the tax credit for low income students scholarship program act.

New Sec. 56. As used in the tax credit for low income students scholarship program act:

(a) "Contributions" means monetary gifts or donations and in-kind contributions, gifts or donations that have an established market value.

(b) "Department" means the Kansas department of revenue.

(c) "Educational scholarship" means an amount not to exceed \$8,000 provided to eligible students to cover all or a portion of the costs of tuition, fees and expenses of a qualified school and, if applicable, the costs of transportation to a qualified school if provided by such qualified school.

(d) "Eligible student" means a child who:

(1) (A) Qualifies as an at-risk pupil as defined in K.S.A. 72-6407, and amendments thereto, and who is attending a school that would qualify as either a title I focus school or a title I priority school as described by the state board under the elementary and secondary education act flexibility waiver as amended in January 2013; or (B) has received an educational scholarship under this program and has not graduated from high school or reached 21 years of age;

(2) resides in Kansas while receiving an educational scholarship; and

(3) (A) was enrolled in any public school in the previous school year in which an educational scholarship is first sought for the child; or (B) is eligible to be enrolled in any public school in the school year in which an educational scholarship is first sought for the child and the child is under the age of six years.

(e) "Parent" includes a guardian, custodian or other person with authority to act on behalf of the child.

(f) "Program" means the tax credit for low income students scholarship program established in sections 55 through 61, and amendments thereto.

(g) "Public school" means a school that would qualify as either a title I focus school or a title I priority school as described by the state board under the elementary and secondary education act flexibility waiver as amended in January 2013 and is operated by a school district.

(h) "Qualified school" means any nonpublic school that provides education to elementary and secondary students, has notified the state board of its intention to participate in the program and complies with the requirements of the program.

(i) "Scholarship granting organization" means an organization that

complies with the requirements of this program and provides educational scholarships to students attending qualified schools of their parents' choice.

(j) "School district" or "district" means any unified school district organized and operating under the laws of this state.

(k) "School year" shall have the meaning ascribed thereto in K.S.A. 72-6408, and amendments thereto.

(l) "Secretary" means the secretary of revenue.

(m) "State board" means the state board of education.

New Sec. 57. (a) There is hereby established the tax credit for low income students scholarship program. The program shall provide eligible students with an opportunity to attend schools of their parents' choice.

(b) Each scholarship granting organization shall issue a receipt, in a form prescribed by the secretary, to each contributing taxpayer indicating the value of the contribution received. Each taxpayer shall provide a copy of such receipt when claiming the tax credit established in section 61, and amendments thereto.

(c) Prior to awarding an educational scholarship to an eligible student, unless such student is under the age of six years, the scholarship granting organization shall receive written verification from the state board that such student is an eligible student under this program, provided the state board and the board of education of the school district in which the eligible student was enrolled the previous school year have received written consent from such eligible student's parent authorizing the release of such information.

(d) Upon receipt of information in accordance with subsection (a)(2) of section 58, and amendments thereto, the state board shall inform the scholarship granting organization if such student has already been designated to receive an educational scholarship by another scholarship granting organization.

(e) In each school year, each eligible student under this program shall not receive more than one educational scholarship under this program.

(f) An eligible student's participation in this program by receiving an educational scholarship constitutes a waiver to special education services provided by any school district, unless such school district agrees to provide such services to the qualified school.

New Sec. 58. (a) To be eligible to participate in the program, a scholarship granting organization shall comply with the following:

(1) The scholarship granting organization shall notify the secretary and the state board of the scholarship granting organization's intent to provide educational scholarships to students attending qualified schools;

(2) upon granting an educational scholarship to an eligible student, the scholarship granting organization shall report such information to the state board;

(3) the scholarship granting organization shall provide verification to the secretary that the scholarship granting organization is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(4) upon receipt of contributions in an aggregate amount or value in excess of \$50,000 during a school year, a scholarship granting organization shall file with the state board either:

(A) A surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(B) financial information demonstrating the scholarship granting organization's ability to pay an aggregate amount equal to the amount of the contributions expected to be received during the school year, which must be reviewed and approved of in writing by the state board;

(5) scholarship granting organizations that provide other nonprofit services in addition to providing educational scholarships shall not commingle contributions made under the program with other contributions made to such organization. A scholarship granting organization under this subsection shall also file with the state board, prior to the commencement of each school year, either:

(A) A surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(B) financial information demonstrating the nonprofit organization's ability to pay an aggregate amount equal to the amount of the contributions expected to be received during the school year, which must be reviewed and approved of in writing by the state board;

(6) the scholarship granting organization shall ensure that each qualified school receiving educational scholarships from the scholarship granting organization is in compliance with the requirements of the program;

(7) at the end of the calendar year, the scholarship granting organization shall have its accounts examined and audited by a certified public accountant. Such audit shall include, but not be limited to, information verifying that the educational scholarships awarded by the scholarship granting organization were distributed to the eligible students determined by the state board under subsection (c) of section 57, and amendments thereto, and information specified in this section. Prior to filing a copy of the audit with the state board, such audit shall be duly verified and certified by a certified public accountant; and

(8) if a scholarship granting organization decides to limit the number or type of qualified schools who will receive educational scholarships, the scholarship granting organization shall provide, in writing, the name or names of those qualified schools to any contributor and the state board.

(b) No scholarship granting organization shall provide an educational scholarship for any eligible student to attend any qualified school with

paid staff or paid board members, or relatives thereof, in common with the scholarship granting organization.

(c) The scholarship granting organization shall disburse not less than 90% of contributions received pursuant to the program to eligible students in the form of educational scholarships within 36 months of receipt of such contributions. If such contributions have not been disbursed within the applicable 36-month time period, then the scholarship granting organization shall not accept new contributions until 90% of the received contributions have been disbursed in the form of educational scholarships. Any income earned from contributions must be disbursed in the form of educational scholarships.

(d) A scholarship granting organization may continue to provide an educational scholarship to an eligible student who received an educational scholarship under this program in the year immediately preceding the current school year.

(e) A scholarship granting organization shall direct payments of an educational scholarship to the qualified school on behalf of the eligible student. Payment shall be made by check made payable to both the parent and the qualified school. If an eligible student transfers to a new qualified school during a school year, the scholarship granting organization shall direct payment in a prorated amount to the original qualified school and the new qualified school based on the eligible student's attendance. If the eligible student transfers to a public school and enrolls in such public school after September 20 of the current school year, the scholarship granting organization shall direct payment in a prorated amount to the original qualified school and the public school based on the eligible student's attendance. The prorated amount to the public school shall be considered a donation and shall be paid to the school district of such public school in accordance with K.S.A. 72-8210, and amendments thereto, to provide for the education of such eligible student.

(f) By June 1 of each year, a scholarship granting organization shall submit a report to the state board for the educational scholarships provided in the immediately preceding 12 months. Such report shall be in a form and manner as prescribed by the state board, approved and signed by a certified public accountant, and shall contain the following information:

- (1) The name and address of the scholarship granting organization;
- (2) the name and address of each eligible student receiving an educational scholarship by the scholarship granting organization;
- (3) the total number and total dollar amount of contributions received during the 12-month reporting period; and
- (4) the total number and total dollar amount of educational scholarships awarded during the 12-month reporting period and the total number and total dollar amount of educational scholarships awarded during

the 12-month reporting period to eligible students who qualified under subsection (d) of section 56, and amendments thereto.

(g) No scholarship granting organization shall:

(1) Provide an eligible student with an educational scholarship established by funding from any contributions made by any relative of such eligible student; or

(2) accept a contribution from any source with the express or implied condition that such contribution be directed toward an educational scholarship for a particular eligible student.

New Sec. 59. On or before the first day of the legislative session in 2015, and each year thereafter, the state board shall prepare and submit a report to the legislature on the program. Annual reports shall include information reported to the state board under subsection (f) of section 58, and amendments thereto, and a summary of such information.

New Sec. 60. (a) (1) To qualify for the tax credit allowed by this act, the scholarship granting organization shall apply each tax year to the state board for a certification that the scholarship granting organization is in substantial compliance with the program based on information received in the annual audit and yearly report filed by the scholarship granting organization with the state board.

(2) The state board shall prescribe the form of the application, which shall include, but not be limited to, the information set forth in subsection (a)(1).

(b) If the state board determines that the requirements under this section were met by the scholarship granting organization, the state board shall issue a certificate of compliance to the director of taxation.

(c) The state board shall adopt rules and regulations to implement the provisions of this section.

New Sec. 61. (a) There shall be allowed a credit against the corporate income tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, the privilege tax liability imposed upon a taxpayer pursuant to the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and the premium tax liability imposed upon a taxpayer pursuant to the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, for tax years commencing after December 31, 2014, an amount equal to 70% of the amount contributed to a scholarship granting organization authorized pursuant to section 55 et seq., and amendments thereto.

(b) The credit shall be claimed and deducted from the taxpayer's tax liability during the tax year in which the contribution was made to any such scholarship granting organization.

(c) For each tax year, in no event shall the total amount of credits

allowed under this section exceed \$10,000,000 for any one tax year. Except as otherwise provided, the allocation of such tax credits for each scholarship granting organization shall be determined by the scholarship granting organization in consultation with the secretary, and such determination shall be completed prior to the issuance of any tax credits pursuant to this section.

(d) If the amount of any such tax credit claimed by a taxpayer exceeds the taxpayer's income, privilege or premium tax liability, such excess amount may be carried over for deduction from the taxpayer's income, privilege or premium tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability.

(e) The secretary shall adopt rules and regulations regarding filing of documents that support the amount of credit claimed pursuant to this section.

Sec. 62. K.S.A. 2013 Supp. 79-32,138 is hereby amended to read as follows: 79-32,138. (a) Kansas taxable income of a corporation taxable under this act shall be the corporation's federal taxable income for the taxable year with the modifications specified in this section.

(b) There shall be added to federal taxable income: (i) The same modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and amendments thereto, with respect to resident individuals, except subsections (b)(xix), (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii).

(ii) The amount of all depreciation deductions claimed for any property upon which the deduction allowed by K.S.A. 2013 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is claimed.

(iii) The amount of any charitable contribution deduction claimed for any contribution or gift to or for the use of any racially segregated educational institution.

(iv) For taxable years commencing December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2013 Supp. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2013 Supp. 40-2,190, and amendments thereto.

(v) *The amount of any charitable contribution deduction claimed for any contribution or gift made to a scholarship granting organization to the extent the same is claimed as the basis for the credit allowed pursuant to section 61, and amendments thereto.*

(c) There shall be subtracted from federal taxable income: (i) The same modifications as are set forth in subsection (c) of K.S.A. 79-32,117,

and amendments thereto, with respect to resident individuals, except subsection (c)(xx).

(ii) The federal income tax liability for any taxable year commencing prior to December 31, 1971, for which a Kansas return was filed after reduction for all credits thereon, except credits for payments on estimates of federal income tax, credits for gasoline and lubricating oil tax, and for foreign tax credits if, on the Kansas income tax return for such prior year, the federal income tax deduction was computed on the basis of the federal income tax paid in such prior year, rather than as accrued. Notwithstanding the foregoing, the deduction for federal income tax liability for any year shall not exceed that portion of the total federal income tax liability for such year which bears the same ratio to the total federal income tax liability for such year as the Kansas taxable income, as computed before any deductions for federal income taxes and after application of subsections (d) and (e) of this section as existing for such year, bears to the federal taxable income for the same year.

(iii) An amount for the amortization deduction allowed pursuant to K.S.A. 2013 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.

(iv) For all taxable years commencing after December 31, 1987, the amount included in federal taxable income pursuant to the provisions of section 78 of the internal revenue code.

(v) For all taxable years commencing after December 31, 1987, 80% of dividends from corporations incorporated outside of the United States or the District of Columbia which are included in federal taxable income.

(d) If any corporation derives all of its income from sources within Kansas in any taxable year commencing after December 31, 1979, its Kansas taxable income shall be the sum resulting after application of subsections (a) through (c) hereof. Otherwise, such corporation's Kansas taxable income in any such taxable year, after excluding any refunds of federal income tax and before the deduction of federal income taxes provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund of federal income tax as determined under paragraph (iv) of subsection (b) of K.S.A. 79-32,117, and amendments thereto, and minus the deduction for federal income taxes as provided by subsection (c)(ii) shall be such corporation's Kansas taxable income.

(e) A corporation may make an election with respect to its first taxable year commencing after December 31, 1982, whereby no addition modifications as provided for in subsection (b)(ii) of K.S.A. 79-32,138, and amendments thereto, and subtraction modifications as provided for in subsection (c)(iii) of K.S.A. 79-32,138, and amendments thereto, as those subsections existed prior to their amendment by this act, shall be required to be made for such taxable year.

New Sec. 63. (a) (1) Any eligible postsecondary educational institution may certify to the board of regents:

(A) The number of individuals who received a general educational development (GED) credential from such institution while enrolled in an eligible career technical education program;

(B) the number of individuals who received a career technical education credential from such institution; and

(C) the number of individuals who were enrolled in an eligible career technical education program at such institution and who are pursuing a general educational development (GED) credential.

(2) Certifications submitted pursuant to this subsection shall be submitted in such form and manner as prescribed by the board of regents, and shall include such other information as required by the board of regents.

(b) Each fiscal year, upon receipt of a certification submitted under subsection (a), the board of regents shall authorize payment to such eligible postsecondary educational institution from the postsecondary education performance-based incentives fund. The amount of any such payment shall be calculated based on the following:

(1) For each individual who has received a general educational development (GED) credential, \$500;

(2) for each individual who has received a career technical education credential, \$1,000; and

(3) for each individual enrolled in an eligible career technical education program who is pursuing a general educational development (GED) credential, \$170.

(c) That portion of any payment from the postsecondary education performance-based incentives fund that is made based on subsection (b)(2) shall be expended for scholarships for individuals enrolled in an eligible career technical education program and operating costs of eligible career technical education programs. Each eligible postsecondary educational institution shall prepare and submit a report to the board of regents which shall include the number of individuals who received scholarships, the aggregate amount of moneys expended for such scholarships and the number of those individuals who received a scholarship that also received a career technical education credential.

(d) (1) Of that portion of any payment from the postsecondary education performance-based incentives fund that is made based on subsection (b)(3), an amount equal to \$150 for each individual shall be expended by the eligible postsecondary educational institution for the general educational development (GED) test.

(2) If any individual enrolled in an eligible career technical education program for which an eligible postsecondary educational institution has received a payment under this section fails to take the general educational development (GED) test, then such institution shall notify the board of

regents in writing that no such test was administered to the individual. For each such notification received, the board of regents shall deduct an amount equal to \$150 from such institution's subsequent incentive payment.

(e) All payments authorized by the board of regents pursuant to this section shall be subject to the limits of appropriations made for such purposes. If there are insufficient appropriations for the board of regents to authorize payments in accordance with the amounts set forth in subsection (b), the board of regents shall prorate such amounts in accordance with appropriations made therefor.

(f) There is hereby created the postsecondary education performance-based incentives fund. Expenditures from the postsecondary education performance-based incentives fund shall be for the sole purpose of paying payments to eligible postsecondary educational institutions as authorized by the board of regents. All expenditures from the postsecondary education performance-based incentives fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board of regents, or the president's designee.

(g) As used in this section:

(1) "Board of regents" means the state board of regents provided for in the constitution of this state and established by K.S.A. 74-3202a, and amendments thereto.

(2) "Career technical education credential" means any industry-recognized technical certification or credential, other than a general educational development (GED) credential, or any technical certification or credential authorized by a state agency.

(3) "Eligible career technical education program" means a program operated by one or more eligible postsecondary educational institutions that is identified by the board of regents as a program that allows an enrollee to obtain a general educational development (GED) credential while pursuing a career technical education credential.

(4) "Eligible postsecondary educational institution" means any community college, technical college or the institute of technology at Washburn university, except such term shall not include Johnson county community college.

(5) "State agency" means any state office, department, board, commission, institution, bureau or any other state authority.

New Sec. 64. (a) The state board of regents, for and on behalf of the university of Kansas, is hereby authorized to exchange and convey the real property described in subsection (b) to the Kansas university endowment association in consideration for the Kansas university endowment association exchanging and conveying the real property described in subsection (c) to the university of Kansas. The exchange and conveyance of

real property by the state board of regents under this section shall be executed in the name of the state board of regents by its chairperson and its chief executive officer. The deed for such conveyance may be by warranty deed or by quitclaim deed as determined to be in the best interests of the state by the state board of regents in consultation with the attorney general. No exchange and conveyance of real estate and improvements thereon as authorized by this section shall be made by the state board of regents until the deeds and conveyances have been reviewed and approved by the attorney general and, if warranty deeds are to be the instruments of conveyance, title reviews have been performed or title insurance has been obtained and the title opinion or the certificates of title insurance, as the case may be, have been approved by the attorney general. The conveyance authorized by this section shall not be subject to the provisions of K.S.A. 75-3043a or K.S.A. 2013 Supp. 75-6609, and amendments thereto.

(b) In accordance with the provisions of this section, the state board of regents is hereby authorized to exchange and convey the following described real property to the Kansas university endowment association:

Part of Lots 2, 3 and 10, Block 8 Oread Addition, a subdivision in the City of Lawrence, Douglas County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of said Block 8 Oread Addition; thence South 01 degrees 50 minutes 57 seconds East along the West line of said Block 8 a distance of 250.07 feet to the Northwest corner of the South One-Half of Lot 10 Block 8 Oread Addition said point being the Point of Beginning; thence North 88 degrees 11 minutes 58 seconds East along the North line of the South One-Half of said Lot 10 a distance of 125.00 feet to a point said point being the Northeast corner of the South One-Half of said Lot 10; thence North 01 degrees 50 minutes 57 seconds West a distance of 100.00 feet to a point said point being the Northwest corner of the South One-Half of Lot 2 Oread Addition; thence North 88 degrees 11 minutes 58 seconds East along the North line of said South One-Half of Lot 2 a distance of 213.77 feet to a point on the Westerly right of way of Oread Avenue, said point also being the Northeast corner of the South One-Half of said Lot 2; thence South 08 degrees 59 minutes 36 seconds West along said Westerly right of way a distance of 120.26 feet to a point; thence South 88 degrees 11 minutes 58 seconds West a distance of 316.15 feet to a point on the West line of said Block 8 Oread Addition; thence North 01 degrees 50 minutes 57 seconds West along said West line a distance of 18.13 feet to the Point of Beginning, and containing 26,183.02 square feet, more or less. Excepting easements, rights of way or restrictions of record.

(c) In accordance with the provisions of this section, the university of Kansas is hereby authorized to accept title to the following described real

property conveyed to the university by the Kansas university endowment association:

A Tract of land in the Southwest One-Quarter of Section 31, Township 12 South, Range 20 East of the 6th Principal Meridian, in the City of Lawrence, Douglas County, Kansas, more particularly described as follows:

Beginning at point on the West line of the Southwest One-Quarter of Section 31, Township 12, Range 20 and 186.53 feet North of the Southwest corner thereof; thence North 01 degrees 49 minutes 01 seconds West along the West line of said Southwest One-Quarter a distance of 190.00 feet to a point on the South right of way of West 14th street as described in the deed recorded in Book 261 at Page 558; thence North 88 degrees 25 minutes 51 seconds East along the said South right of way a distance of 62.94 feet to a point; thence South 01 degrees 49 minutes 01 seconds East a distance of 76.15 feet to a point; thence North 88 degrees 25 minutes 51 seconds East a distance of 128.06 feet to a point; thence North 01 degrees 49 minutes 01 seconds West a distance of 28.65 feet to a point, said point being the Southwest corner of a tract of land described in the deed recorded in Book 304 at Page 626; thence North 88 degrees 25 minutes 51 seconds East along the South line of said tract, a distance of 120.00 feet to a point on the West right of way of Ohio Street; thence South 01 degrees 49 minutes 01 seconds East along the said West right of way a distance of 142.50 feet to a point, said point being the Northeast corner of a tract of land described in the deed recorded in Book 400 at Page 674; thence South 88 degrees 25 minutes 51 seconds West along the North line of said tract recorded in Book 400 at Page 674 and continuing along the North line of a tract of land described in the deed recorded in Book 347 at Page 1276 a distance of 311.00 feet to a point, said point being the Northwest corner of the said tract of land described in the deed recorded in Book 347 at Page 1276, said point also being the Point of Beginning, and containing 43,628.53 square feet, more or less. Excepting easements, rights of way or restrictions of record.

New Sec. 65. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application. To this end the provisions of this act are severable.

Sec. 66. K.S.A. 72-8809 and K.S.A. 2013 Supp. 72-1127, 72-1925, 72-6433, 72-6433d, 72-8254, 72-8814 and 79-32,138 are hereby repealed.

Sec. 67. On and after July 1, 2014, K.S.A. 72-1412, 72-5333b, 72-5439, 72-5446 and 72-6416 and K.S.A. 2013 Supp. 72-5436, 72-5437, 72-5438, 72-5445, 72-6407, 72-6410, 72-6415b, 72-6417, 72-6431, 72-6441 and 72-6454 are hereby repealed.

Sec. 68. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 21, 2014.

Published in the *Kansas Register* May 1, 2014.

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## CHAPTER 94

HOUSE BILL No. 2418  
(Amended by Chapter 117)

AN ACT concerning Kansas department for aging and disability services; relating to adult care homes; amending K.S.A. 2013 Supp. 39-923 and 39-925 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) “Adult care home” means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by the secretary of aging for aging and disability services.

(2) “Nursing facility” means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(3) “Nursing facility for mental health” means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

(4) “Intermediate care facility for people with intellectual disability” means any place or facility operating 24 hours a day, seven days a week, caring for four or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by intellectual disability or related conditions, need services to compensate for activities of daily living limitations.

(5) “Assisted living facility” means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and

may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week, for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) “Residential health care facility” means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services provided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(7) “Home plus” means any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary of the department of ~~social and rehabilitation services~~ *for children and families*, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided to residents shall be determined by preparation of the staff and rules and regulations developed by the *Kansas* department ~~on aging~~ *for aging and disability services*. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous. Any home plus that provides care for more than eight individuals after the effective date of this act shall adjust staffing personnel and resources as necessary to meet residents’ needs in order to maintain the current level of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.

(8) “Boarding care home” means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or

owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

(9) “Adult day care” means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of or assistance with activities of daily living.

(10) “Place or facility” means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term “place or facility” may include multiple buildings.

(11) “Skilled nursing care” means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

(12) “Supervised nursing care” means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.

(13) “Resident” means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(14) “Person” means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.

(15) “Operate an adult care home” means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word “own” and the word “lease” shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(16) “Licensing agency” means the secretary of ~~aging~~ *aging for aging and disability services*.

(17) “Skilled nursing home” means a nursing facility.

(18) “Intermediate nursing care home” means a nursing facility.

(19) “Apartment” means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.

(20) “Individual living unit” means a private unit which includes, but

is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.

(21) “Operator” means an individual *registered pursuant to the operator registration act, section 2 et seq., and amendments thereto*, who ~~operates~~ *may be appointed by a licensee to have the authority and responsibility to oversee* an assisted living facility or residential health care facility with fewer than 61 residents, a home plus or adult day care facility and has completed a course approved by the secretary of health and environment on principles of assisted living and has successfully passed an examination approved by the secretary of health and environment on principles of assisted living and such other requirements as may be established by the secretary of health and environment by rules and regulations.

(22) “Activities of daily living” means those personal, functional activities required by an individual for continued well-being, including but not limited to eating, nutrition, dressing, personal hygiene, mobility and toileting.

(23) “Personal care” means care provided by staff to assist an individual with, or to perform activities of daily living.

(24) “Functional impairment” means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.

(25) “Kitchen” means a food preparation area that includes a sink, refrigerator and a microwave oven or stove.

(26) The term “intermediate personal care home” for purposes of those individuals applying for or receiving veterans’ benefits means residential health care facility.

(27) “Paid nutrition assistant” means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42 C.F.R. § 483.160 and paragraph (h) of 42 C.F.R. § 483.35, and who provides such assistance under the supervision of a registered professional or licensed practical nurse.

(28) “Medicaid program” means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.

(29) “Licensee” means any person or persons acting jointly or severally who are licensed by the secretary for aging and disability services pursuant to the adult care home licensure act, K.S.A. 39-923 et seq., and amendments thereto.

(b) The term “adult care home” shall not include institutions operated by federal or state governments, except institutions operated by the Kansas commission on veterans affairs, hospitals or institutions for the

treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices which are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section 418.1 et seq., and amendments thereto, and which provide services only to hospice patients.

(c) Nursing facilities in existence on the effective date of this act changing licensure categories to become residential health care facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.

(d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.

(e) Nursing facilities with less than 60 beds converting a portion of the facility to residential health care shall have the option of licensing for residential health care for less than six individuals but not less than 10% of the total bed count within a contiguous portion of the facility.

(f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

New Sec. 2. Sections 2 through 9, and amendments thereto, shall be known and may be cited as the operator registration act.

New Sec. 3. As used in the operator registration act:

(a) “Operator” means an individual registered pursuant to the operator registration act who may be appointed by a licensee to have authority and responsibility to oversee an adult care home.

(b) “Secretary” means the secretary for aging and disability services.

(c) “Department” means the Kansas department for aging and disability services.

(d) “Adult care home” means an assisted living facility or residential health care facility licensed for less than 61 residents, home plus or adult day care as defined by K.S.A. 39-923, and amendments thereto, or by the rules and regulations of the licensing agency adopted pursuant to such section for which a license is required under article 9 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto.

(e) “Licensee” shall have the meaning ascribed to such term in K.S.A. 39-923, and amendments thereto.

New Sec. 4. (a) On and after July 1, 2014, no person shall represent that such person is an operator unless such person is registered under the operator registration act as an operator. A violation of this subsection is a class C misdemeanor.

(b) The secretary shall adopt by rules and regulations a system for registering operators. Such rules and regulations shall include qualifications for registration. Such rules and regulations shall require, at a minimum, that the applicant:

- (1) Be at least 21 years of age;
- (2) (A) Possess a high school diploma or equivalent, with one year relevant experience as determined by the secretary;  
(B) possess an associate's degree in a relevant field as determined by the secretary; or  
(C) possess a baccalaureate degree;
- (3) has successfully completed a course approved by the secretary on principles of assisted living;
- (4) has passed an examination approved by the secretary on principles of assisted living and such other requirements as may be established by the secretary by rules and regulations;
- (5) has filed an application; and
- (6) has paid the required application fee.

New Sec. 5. On and after July 1, 2014, no adult care home shall be operated unless under the supervision of an operator who holds a valid registration as an operator issued pursuant to the operator registration act or an adult care home administrator who holds a valid license as a licensed adult care home administrator pursuant to K.S.A. 65-3501 et seq., and amendments thereto.

New Sec. 6. (a) Upon application and within two years of July 1, 2014, the secretary may waive the requirements of (b)(2) and (b)(6) of section 4, and amendments thereto, and grant a registration to any applicant so long as the applicant: (1) Has completed the operator course prior to July 1, 2014, that was approved by the secretary; and (2) has passed an examination prior to July 1, 2014, that was approved by the secretary.

(b) A person who has completed the operator course approved by the secretary and has passed an examination that was approved by the secretary prior to July 1, 2014, and does not apply within two years of July 1, 2014, shall be considered to have a registration that has lapsed for failure to renew.

New Sec. 7. (a) Every individual who holds a valid registration as an operator shall apply to the department for renewal of such registration in accordance with rules and regulations adopted by the secretary.

(b) Upon making an application for a renewal of registration, such individual shall pay a renewal fee to be fixed by rules and regulations and shall submit evidence satisfactory to the secretary that during the period

immediately preceding application for renewal the applicant has completed continuing education requirements as provided by the rules and regulations. Any individual who submits an application for a renewal of registration within 30 days after the date of expiration shall also pay a late renewal fee fixed by rules and regulations. Any individual who submits an application for a renewal of registration after the 30-day period following the date of expiration shall be considered as having a registration that has lapsed for failure to renew and shall be reissued a registration only after the individual has been reinstated under subsection (d).

(c) The department shall issue a registration to an operator upon receipt of an application for renewal of registration, the renewal fee and the evidence required for approval.

(d) An operator who allows their registration to lapse by failing to renew may be reinstated upon payment of the renewal fee, the reinstatement fee and submission of evidence demonstrating satisfactory completion of any applicable program or a course of study established by the secretary for reinstatement of persons whose registrations have lapsed for failure to renew. The secretary shall adopt rules and regulations establishing appropriate requirements for reinstatement of persons whose registrations have lapsed for failure to renew.

(e) The expiration date of registrations issued or renewed shall be established by rules and regulations of the secretary. Subject to the provisions of this subsection, each registration shall be renewable on a biennial basis upon the filing of a renewal application prior to the expiration of an existing registration and upon payment of the renewal fee established pursuant to rules and regulations. To provide for a system of biennial renewal of registrations, the secretary may provide by rules and regulations that registrations issued or renewed for the first time after July 1, 2014, may expire less than two years from the date of issuance or renewal. In each case in which a registration is issued or renewed for a period of time less than two years, the secretary shall prorate to the nearest whole month the registration or renewal fee established pursuant to rules and regulations. No proration shall be made under this subsection on delinquent registration renewals.

New Sec. 8. All fees under the operator registration act shall be established by rules and regulations of the secretary. The amounts received for such fees shall be deposited in the state treasury in accordance with K.S.A. 75-4215, and amendments thereto, and shall be credited to the state licensure fee fund administered by the department pursuant to K.S.A. 39-930, and amendments thereto.

New Sec. 9. (a) The secretary may deny, refuse to renew, suspend or revoke a registration where the operator or applicant:

(1) Has obtained, or attempted to obtain, a registration by means of fraud, misrepresentation or concealment of material facts;

(2) has a finding of abuse, neglect or exploitation against a resident of an adult care home as defined in K.S.A. 39-1401, and amendments thereto;

(3) has been convicted of a crime found by the secretary to have direct bearing on whether the registrant or applicant can be entrusted to serve the public in the position of an operator;

(4) has violated a lawful order or rule or regulation of the secretary;

(5) had disciplinary action taken against such operator on a professional or occupational healthcare credential issued by this state or by another jurisdiction; or

(6) has violated any provisions of the operator registration act.

(b) Such denial, refusal to renew, suspension or revocation of a registration may be ordered by the secretary after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act.

(c) A person whose registration has been revoked may apply to the secretary for reinstatement. The secretary shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An applicant for reinstatement shall submit an application for reinstatement and a reinstatement fee established by the secretary and fulfill the requirements under subsection (d) of section 7, and amendments thereto.

Sec. 10. K.S.A. 2013 Supp. 39-925 is hereby amended to read as follows: 39-925. (a) The administration of the adult care home licensure act is hereby transferred from the secretary of health and environment to the secretary of ~~aging~~ *for aging and disability services*, except as otherwise provided by this act. On the effective date of this act, the administration of the adult care home licensure act shall be under authority of the secretary of ~~aging~~ *for aging and disability services* as the licensing agency in conjunction with the state fire marshal, and shall have the assistance of the county, city-county or multicounty health departments, local fire and safety authorities and other agencies of government in this state. The secretary of ~~aging~~ *for aging and disability services* shall appoint an officer to administer the adult care home licensure act and such officer shall be in the unclassified service under the Kansas civil service act.

(b) The secretary of ~~aging~~ *for aging and disability services* shall be a continuation of the secretary of health and environment as to the programs transferred and shall be the successor in every way to the powers, duties and functions of the secretary of health and environment for such programs, except as otherwise provided by this act. On and after the effective date of this act, for each of the programs transferred, every act performed in the exercise of such powers, duties and functions by or under the authority of the secretary of ~~aging~~ *for aging and disability services* shall be deemed to have the same force and effect as if performed

by the secretary of health and environment in whom such powers were vested prior to the effective date of this act.

(c) (1) No suit, action or other proceeding, judicial or administrative, which pertains to any of the transferred adult care home survey, certification and licensing programs, and reporting of abuse, neglect or exploitation of adult care home residents, which is lawfully commenced, or could have been commenced, by or against the secretary of health and environment in such secretary's official capacity or in relation to the discharge of such secretary's official duties, shall abate by reason of the transfer of such programs. The secretary of aging for aging and disability services shall be named or substituted as the defendant in place of the secretary of health and environment in any suit, action or other proceeding involving claims arising from facts or events first occurring either on or before the effective date of this act or thereafter.

(2) No suit, action or other proceeding, judicial or administrative, pertaining to the adult care home survey, certification and licensing programs or to the reporting of abuse, neglect or exploitation of adult care home residents which otherwise would have been dismissed or concluded shall continue to exist by reason of any transfer under this act.

(3) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

(4) Any final appeal decision of the department of health and environment entered pursuant to K.S.A. 39-923 et seq., and amendments thereto, K.S.A. 39-1401 et seq., and amendments thereto, or the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto, currently pertaining to adult care home certification, survey and licensing or reporting of abuse, neglect or exploitation of adult care home residents, transferred pursuant to this act shall be binding upon and applicable to the secretary of aging for aging and disability services and the department on aging Kansas department for aging and disability services.

(5) All orders and directives under the adult care home licensure act by the secretary of health and environment in existence immediately prior to the effective date of the transfer of powers, duties and functions by this act, shall continue in force and effect and shall be deemed to be duly issued orders, and directives of the secretary of aging for aging and disability services, until reissued, amended or nullified pursuant to law.

(d) ~~(1)~~ All rules and regulations of the department of health and environment adopted pursuant to K.S.A. 39-923 et seq., and amendments thereto, and in effect on the effective date of this act, which promote the safe, proper and adequate treatment and care of individuals in adult care homes, ~~except those specified in subsection (d)(2) of this section,~~ shall continue to be effective and shall be deemed to be rules and regulations of the secretary of aging for aging and disability services, until revised, amended, revoked or nullified by the secretary of aging for aging and disability services, or otherwise, pursuant to law.

~~(2) The following rules and regulations of the department of health and environment adopted pursuant to K.S.A. 39-923 et seq., and amendments thereto, and in effect on the effective date of this act, shall remain the rules and regulations of the secretary of health and environment: K.A.R. 28-39-164 through 28-39-174.~~

(e) All contracts shall be made in the name of “*secretary of aging for aging and disability services*” and in that name the secretary of *aging for aging and disability services* may sue and be sued on such contracts. The grant of authority under this subsection shall not be construed to be a waiver of any rights retained by the state under the 11<sup>th</sup> amendment to the United States constitution and shall be subject to and shall not supersede the provisions of any appropriation act of this state.

Sec. 11. K.S.A. 2013 Supp 39-923 and 39-925 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 22, 2014.

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## CHAPTER 95

Senate Substitute for HOUSE BILL No. 2655  
(Amended by Chapter 117)

AN ACT concerning crimes, punishment and criminal procedure; relating to the sentencing of veterans; interference with law enforcement; giving a false alarm; amending K.S.A. 2013 Supp. 21-5904, 21-6207, 21-6604 and 73-1209 and repealing the existing sections.

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

New Section 1. (a) Upon motion of the defendant at the time of conviction or prior to sentencing, a defendant convicted of a criminal offense may assert that such defendant committed such offense as a result of mental illness, including posttraumatic stress disorder, stemming from service in a combat zone in the United States armed forces. The court shall hold a hearing to determine whether the defendant:

(1) Has served in the armed forces of the United States of America in a combat zone, as defined in section 112 of the federal internal revenue code of 1986. Proof of such service shall consist of a certification by the executive director of the Kansas commission on veterans affairs in accordance with K.S.A. 73-1209, and amendments thereto;

(2) has separated from such armed forces with an honorable discharge or general discharge under honorable conditions;

(3) suffers from mental illness; and

(4) such mental illness was caused or exacerbated by events occurring during such defendant’s service in a combat zone.

(b) (1) Except as provided in subsection (b)(2), if the court deter-

mines that such defendant meets the criteria provided in subsection (a) and such defendant's current crime of conviction and criminal history fall within a presumptive nonprison category under the sentencing guidelines, the court may order such defendant to undergo inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the federal veterans' administration or the Kansas national guard with the consent of the defendant.

(2) If the court determines that such defendant meets the criteria provided in subsection (a) and such defendant meets the requirements established in K.S.A. 2013 Supp. 21-6824, and amendments thereto, the provisions of K.S.A. 2013 Supp. 21-6824, and amendments thereto, shall apply, except that in lieu of requiring such defendant to participate in a certified drug abuse treatment program as provided in K.S.A. 2013 Supp. 75-52,144, and amendments thereto, the court may order such defendant to undergo drug abuse treatment from any treatment facility or program operated by the United States department of defense, the federal veterans' administration or the Kansas national guard with the consent of the defendant.

(c) Nothing in this section shall be construed to limit the court's authority to:

(1) Order any other sanction pursuant to K.S.A. 2013 Supp. 21-6602 or 21-6604, and amendments thereto;

(2) order a mental examination pursuant to K.S.A. 22-3429, and amendments thereto;

(3) order commitment pursuant to K.S.A. 22-3430 et seq., and amendments thereto; or

(4) determine that a person is a mentally ill person subject to involuntary commitment for care and treatment as defined in K.S.A. 59-2946, and amendments thereto.

(d) As used in this section:

(1) "Mental illness" means a mental disorder manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment; and

(2) "posttraumatic stress disorder" means posttraumatic stress disorder as defined in the diagnostic and statistical manual of mental disorders, fifth edition (DSM-5, 2013), of the American psychiatric association and that occurred as a result of events during the person's service in one or more combat zones.

(e) This section shall be a part of and supplemental to the Kansas criminal code.

Sec. 2. K.S.A. 2013 Supp. 21-5904 is hereby amended to read as follows: 21-5904. (a) Interference with law enforcement is:

(1) Falsely reporting to a law enforcement officer, law enforcement agency or state investigative agency:

(A) That a particular person has committed a crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;

*(B) that a law enforcement officer has committed a crime or committed misconduct in the performance of such officer's duties, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;*

~~(B)~~ (C) any information, knowing that such information is false and intending to influence, impede or obstruct such officer's or agency's duty; or

~~(C) that a crime has been committed or any information concerning a crime or suspected crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information; or~~

(D) any information concerning the death, disappearance or potential death or disappearance of a child under the age of 13, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;

(2) concealing, destroying or materially altering evidence with the intent to prevent or hinder the apprehension or prosecution of any person; or

(3) knowingly obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty.

(b) Interference with law enforcement as defined in:

(1) Subsection (a)(1)(A) *and* (a)(1)(B) is a:

(A) Class A nonperson misdemeanor ~~in the case of a misdemeanor, except as provided in subsection (b)(1)(B);~~ and

(B) severity level 8, nonperson felony in the case of a felony;

(2) subsection ~~(a)(1)(B)~~ (a)(1)(C) is a:

(A) Class A nonperson misdemeanor ~~in the case of a misdemeanor, except as provided in subsection (b)(2)(B);~~ and

(B) severity level 9, nonperson felony in the case of a felony;

~~(3) subsection (a)(1)(C) is a class A misdemeanor;~~

~~(4)~~ (3) subsection (a)(1)(D) is a severity level 8, nonperson felony;

~~(5)~~ (4) subsection (a)(2) is a:

(A) Class A nonperson misdemeanor ~~in the case of a misdemeanor, except as provided in subsection (b)(4)(B);~~ and

(B) severity level 8, nonperson felony in the case of a felony; and

~~(6)~~ (5) subsection (a)(3) is a:

(A) Severity level 9, nonperson felony in the case of a felony, or resulting from parole or any authorized disposition for a felony; and

(B) class A nonperson misdemeanor in the case of a misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case.

Sec. 3. K.S.A. 2013 Supp. 21-6207 is hereby amended to read as follows: 21-6207. (a) Giving a false alarm is:

(1) Transmitting in any manner to the fire department of any city, township or other municipality a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(2) making a call in any manner for emergency service assistance including police, fire, medical or other emergency service provided under K.S.A. 12-5301 et seq., and amendments thereto, knowing at the time of such call that there is no reasonable ground for believing such assistance is needed.

(b) Giving a false alarm:

(1) Is a class A nonperson misdemeanor, *except as provided in subsections (b)(2) and (b)(3)*;

(2) *is a severity level 10, nonperson felony when the person uses an electronic device or software to alter, conceal or disguise the identity of the person making such transmission or such call, except as provided in subsection (b)(3); and*

(3) *as defined in subsection (a)(2) is a severity level 7, nonperson felony when the request for emergency service assistance made by the person includes false information that violent criminal activity or immediate threat to a person's life or safety is taking place.*

(c) *An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for interference with law enforcement, K.S.A. 2013 Supp. 21-5904, and amendments thereto.*

Sec. 4. K.S.A. 2013 Supp. 21-6604 is hereby amended to read as follows: 21-6604. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense and may impose the provisions of subsection (q);

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2013 Supp. 8-1025, and amendments thereto, the court may include confinement in a county

jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (c) of K.S.A. 2013 Supp. 21-6602, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape from custody or aggravated escape from custody, as defined in K.S.A. 2013 Supp. 21-5911, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson or aggravated arson as defined in K.S.A. 2013 Supp. 21-5812, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) if the defendant is convicted of a misdemeanor or convicted of

a felony specified in subsection (i) of K.S.A. 2013 Supp. 21-6804, and amendments thereto, assign the defendant to work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A. 75-5202, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. On a second or subsequent conviction of K.S.A. 8-1567, and amendments thereto, an offender placed into a work release program shall serve the total number of hours of confinement mandated by that section;

(12) order the defendant to pay the full amount of unpaid costs associated with the conditions of release of the appearance bond under K.S.A. 22-2802, and amendments thereto;

(13) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12); or

(14) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 2013 Supp. 21-6107, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (d) of K.S.A. 2013 Supp. 21-6602, and amendments thereto.

(d) In addition to any of the above, the court shall order the defend-

ant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2013 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed during a period of time during which the defendant would have been on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony had the defendant not been granted release by the court pursuant to subsection (d) of K.S.A. 2013 Supp. 21-6608, and amendments thereto, or the prisoner review board pursuant to K.S.A. 22-3717, and amendments thereto, the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(3) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2013 Supp. 38-2373, and amendments thereto, for

an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(4) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed consecutively pursuant to the provisions of K.S.A. 2013 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2013 Supp. 21-6824, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2013 Supp. 21-6824, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for

drug crimes committed on or after July 1, 2012, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendments thereto, or a community intermediate sanction center. Pursuant to this subsection the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or community intermediate sanction center and the defendant meets all of the conservation camp's or community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or community intermediate sanction center.

(h) In committing a defendant to the custody of the secretary of corrections, the court shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate:

(1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, or for an offense which is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and such offense does not meet the requirements of K.S.A. 2013 Supp. 21-6824, and amendments thereto; and

(2) otherwise meets admission criteria of the camp.

If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 2013 Supp. 21-6608, and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) (1) Except as provided by *section 1, and amendments thereto, and subsection (f) of K.S.A. 2013 Supp. 21-6805, and amendments thereto*, in addition to any of the above, for felony violations of K.S.A. 2013 Supp. 21-5706, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 2013 Supp. 21-6824, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2013 Supp. 75-52,144, and amendments thereto, including, but not limited to, an approved after-care plan. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(2) If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the defendant's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to sanction or revocation pursuant to the provisions of K.S.A. 22-3716, and amendments thereto. If the defendant's probation is revoked, the defendant shall serve the underlying prison

sentence as established in K.S.A. 2013 Supp. 21-6805, and amendments thereto.

(A) Except as provided in subsection (n)(2)(B), for those offenders who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon completion of the underlying prison sentence, the offender shall not be subject to a period of postrelease supervision.

(B) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation is revoked pursuant to subsection (c) of K.S.A. 22-3716, and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to subsection (c)(1)(C) or (c)(1)(D) of K.S.A. 22-3716, and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 2013 Supp. 21-5706, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the

division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" mean the same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

(p) In addition to any of the above, for any criminal offense that includes the domestic violence designation pursuant to K.S.A. 2013 Supp. 22-4616, and amendments thereto, the court shall require the defendant to: (1) Undergo a domestic violence offender assessment conducted by a certified batterer intervention program; and (2) follow all recommendations made by such program, unless otherwise ordered by the court or the department of corrections. The court may order a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation would assist the court in determining an appropriate sentence. The entity completing the assessment or evaluation shall provide the assessment or evaluation and recommendations to the court and the court shall provide the domestic violence offender assessment to any entity responsible for supervising such defendant. A defendant ordered to undergo a domestic violence offender assessment shall be required to pay for the assessment and, unless otherwise ordered by the court or the department of corrections, for completion of all recommendations.

(q) In imposing a fine, the court may authorize the payment thereof in installments. In lieu of payment of any fine imposed, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed by the later of one year after the fine is imposed or one year after release from imprisonment or jail, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such rescission or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date. All credits for community service shall be subject to review and approval by the court.

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2013 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review board.

(s) Whenever the court has released the defendant on probation pursuant to subsection (a)(3), the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose the violation sanctions as provided in subsection (c)(1)(B) of K.S.A. 22-3716, and amendments thereto, without further order of the court, unless:

(1) The court has specifically withheld this authority in its sentencing order; or

(2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to subsection (b) of K.S.A. 22-3716, and amendments thereto, refuses to waive such right.

(t) Whenever the court has assigned the defendant to a community correctional services program pursuant to subsection (a)(4), the defendant's community corrections officer, with the concurrence of the community corrections director, may impose the violation sanctions as provided in subsection (c)(1)(B) of K.S.A. 22-3716, and amendments thereto, without further order of the court unless:

(1) The court has specifically withheld this authority in its sentencing order; or

(2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to subsection (b) of K.S.A. 22-3716, and amendments thereto, refuses to waive such right.

Sec. 5. K.S.A. 2013 Supp. 73-1209 is hereby amended to read as follows: 73-1209. The executive director of the Kansas veterans' commission, in accordance with general policies established by the commission, shall:

~~(1)(a)~~ Collect data and information as to the facilities, benefits and services now or hereafter available to veterans and ~~their~~ relatives and dependents of *veterans*, and furnish such information to veterans and ~~their~~ relatives and dependents of *veterans* and local service officers of veterans' organizations.

~~(2)(b)~~ Prepare plans for a comprehensive statewide veterans' service program.

~~(3)(c)~~ Coordinate the program of state agencies which may properly be utilized in the administration of various aspects of the problems of veterans, and relatives and dependents of veterans, such as the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, the department of labor, the state board of education, the board of regents and any other state office, department, board or commission furnishing service to veterans or ~~their~~ relatives or dependents of *veterans*.

~~(4)(d)~~ Provide a central contact between federal and state agencies dealing with the problems of veterans and ~~their~~ relatives and dependents of *veterans*.

~~(5)(e)~~ Maintain records of cases handled by the executive director which shall show at least the following information: ~~(a)~~ (1) The name of the veteran; ~~(b)~~ (2) *the* claim or case number of the veteran; and ~~(c)~~ (3) *the* amount of monthly benefit received by the veteran, so as to facilitate the necessary interchange of case histories among state administrative agencies and provide a clearinghouse of information.

~~(6)(f)~~ Provide such services to veterans and ~~their~~ relatives and dependents of *veterans* as are not otherwise offered by federal agencies.

~~(7)(g)~~ Provide a central agency to which veterans and ~~their~~ relatives and dependents of *veterans* may turn for information and assistance.

~~(8)(h)~~ Provide and maintain such field services as shall be necessary to properly care for the needs of veterans and ~~their~~ relatives and dependents of *veterans* which shall not be operated in connection with the ~~social and rehabilitation services~~ *Kansas department for children and families*.

(i) *Provide certification of service of a veteran of the armed forces of the United States of America in a combat zone to any sentencing judge*

*requesting such certification pursuant to section 1, and amendments thereto.*

Sec. 6. K.S.A. 2013 Supp. 21-5904, 21-6207, 21-6604 and 73-1209 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 22, 2014.

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## CHAPTER 96

HOUSE BILL No. 2553°

AN ACT concerning health care; enacting the health care compact.

WHEREAS, The separation of powers, both between the branches of the federal government and between federal and state authority, is essential to the preservation of individual liberty; and

WHEREAS, The constitution creates a federal government of limited and enumerated powers, and reserves to the states or to the people those powers not granted to the federal government; and

WHEREAS, The federal government has enacted many laws that have preempted state laws with respect to health care, and placed increasing strain on state budgets, impairing other responsibilities such as education, infrastructure, and public safety; and

WHEREAS, The member states seek to protect individual liberty and personal control over health care decisions, and believe the best method to achieve these ends is by vesting regulatory authority over health care in the states; and

WHEREAS, By acting in concert, the member states may express and inspire confidence in the ability of each member state to govern health care effectively; and

WHEREAS, The member states recognize that consent of congress may be more easily secured if the member states collectively seek consent through an interstate compact; and

NOW, THEREFORE, The member states hereto resolve, and by the adoption into law under their respective state constitutions of this health care compact, agree, as follows:

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

Section 1. This section shall be known and may be cited as the health care compact.

THE HEALTH CARE COMPACT  
ARTICLE I DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise:

(a) “Commission” means the interstate advisory health care commission.

(b) “Effective date” means the date upon which this compact shall become effective for purposes of the operation of state and federal law in a member state, which shall be the later of:

(1) The date upon which this compact shall be adopted under the laws of the member state, and

(2) the date upon which this compact receives the consent of congress pursuant to article I, section 10, of the United States constitution, after at least two member states adopt this compact.

(c) “Health care” means care, services, supplies, or plans related to the health of an individual and includes but is not limited to:

(1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body;

(2) sale or dispensing of a drug, device, equipment or other item in accordance with a prescription; and

(3) an individual or group plan that provides, or pays the cost of, care, services or supplies related to the health of an individual, except any care, services, supplies or plans provided by the United States department of defense and United States department of veterans affairs, or provided to Native Americans.

(d) “Member state” means a state that is signatory to this compact and has adopted it under the laws of that state.

(e) “Member state base funding level” means a number equal to the total federal spending on health care in the member state during federal fiscal year 2010. On or before the effective date, each member state shall determine the member state base funding level for its state, and that number shall be binding upon that member state. The preliminary estimate of member state base funding level for the state of Kansas is \$6,985,000,000.

(f) “Member state current year funding level” means the member state base funding level multiplied by the member state current year population adjustment factor multiplied by the current year inflation adjustment factor.

(g) “Member state current year population adjustment factor” means the average population of the member state in the current year less the average population of the member state in federal fiscal year 2010, divided by the average population of the member state in federal fiscal year

2010, plus 1. Average population in a member state shall be determined by the United States census bureau.

(h) “Current year inflation adjustment factor” means the total gross domestic product deflator in the current year divided by the total gross domestic product deflator in federal fiscal year 2010. Total gross domestic product deflator shall be determined by the bureau of economic analysis of the United States department of commerce.

#### ARTICLE II PLEDGE

The member states shall take joint and separate action to secure the consent of the United States congress to this compact in order to return the authority to regulate health care to the member states consistent with the goals and principles articulated in this compact. The member states shall improve health care policy within their respective jurisdictions and according to the judgment and discretion of each member states.

#### ARTICLE III LEGISLATIVE POWER

The legislatures of the member states have the primary responsibility to regulate health care in their respective states.

#### ARTICLE IV STATE CONTROL

Each member state, within its state, may suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with the laws and regulations adopted by the member state pursuant to this compact. Federal and state laws, rules, regulations, and orders regarding health care will remain in effect unless a member state expressly suspends them pursuant to its authority under this compact. For any federal law, rule, regulation, or order that remains in effect in a member state after the effective date, that member state shall be responsible for the associated funding obligations in its state.

#### ARTICLE V FUNDING

(a) Each federal fiscal year, each member state shall have the right to federal monies up to an amount equal to its member state current year funding level for that federal fiscal year, funded by congress as mandatory spending and not subject to annual appropriation, to support the exercise of member state authority under this compact. This funding shall not be conditional on any action of or regulation, policy, law, or rule being adopted by the member state.

(b) By the start of each federal fiscal year, congress shall establish an initial member state current year funding level for each member state, based upon reasonable estimates. The final member state current year funding level shall be calculated, and funding shall be reconciled by the United States congress based upon information provided by each member state and audited by the United States government accountability office.

#### ARTICLE VI INTERSTATE ADVISORY HEALTH CARE COMMISSION

(a) The interstate advisory health care commission is established. The commission consists of members appointed by each member state through a process to be determined by each member state. A member state may not appoint more than two members to the commission and may withdraw membership from the commission at any time. Each commission member is entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the commission's total membership.

(b) The commission may elect from among its membership a chairperson. The commission may adopt and publish bylaws and policies that are not inconsistent with this compact. The commission shall meet at least once a year, and may meet more frequently.

(c) The commission may study issues of health care regulation that are of particular concern to the member states. The commission may make non-binding recommendations to the member states. The legislatures of the member states may consider these recommendations in determining the appropriate health care policies in their respective states.

(d) The commission shall collect information and data to assist the member states in their regulation of health care, including assessing the performance of various state health care programs and compiling information on the prices of health care. The commission shall make this information and data available to the legislatures of the member states. Notwithstanding any other provision in this compact, no member state shall disclose to the commission the health information of any individual, nor shall the commission disclose the health information of any individual.

(e) The commission shall be funded by the member states as agreed to by the member states. The commission shall have the responsibilities and duties as may be conferred upon it by subsequent action of the respective legislatures of the member states in accordance with the terms of this compact.

(f) The commission shall not take any action within a member state that contravenes any state law of that member state.

#### ARTICLE VII CONGRESSIONAL CONSENT

This compact shall be effective on its adoption by at least two member states and consent of the United States congress. This compact shall be effective unless the United States congress, in consenting to this compact, alters the fundamental purposes of this compact, which are:

(a) To secure the right of the member states to regulate health care in their respective states pursuant to this compact and to suspend the operation of any conflicting federal laws, rules, regulations and orders within their states; and

(b) to secure federal funding for member states that choose to invoke their authority under this compact, as prescribed by article 5.

#### ARTICLE VIII AMENDMENTS

The member states, by unanimous agreement, may amend this compact from time to time without the prior consent or approval of congress and any amendment shall be effective unless, within one year, the congress disapproves that amendment. Any state may join this compact after the date on which congress consents to the compact by adoption into law under its state constitution.

#### ARTICLE IX WITHDRAWAL; DISSOLUTION

Any member state may withdraw from this compact by adopting a law to that effect, but no such withdrawal shall take effect until six months after the governor of the withdrawing member state has given notice of the withdrawal to the other member states. A withdrawing state shall be liable for any obligations that it may have incurred prior to the date on which its withdrawal becomes effective. This compact shall be dissolved upon the withdrawal of all but one of the member states.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 22, 2014.

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### CHAPTER 97

HOUSE BILL No. 2578

(Amended by Chapters 134 and 135)

AN ACT concerning weapons; relating to the regulation and possession of firearms and knives; amending K.S.A. 2013 Supp. 12-16,124, 12-16,134, 12-4516, 12-4516a, 21-6301, 21-6304, 22-2512, 32-1047, 75-7c04, 75-7c12 and 75-7c20 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 21-6307 and 75-7c12.

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

New Section 1. (a) When the transfer of a firearm requires certification by a chief law enforcement officer in accordance with 27 C.F.R. § 479.85, in effect on January 24, 2003, a person may apply for such certification to a chief law enforcement officer. Within 15 days of receipt of a request for certification, the chief law enforcement officer shall provide such certification and approve the transfer unless a condition as provided in 27 C.F.R. § 479.85 exists which the chief law enforcement officer cannot certify because of specific acts or information directly related to the applicant. A generalized belief by the chief law enforcement officer that certain types of firearms have no lawful purpose or should not be possessed even by those who are not otherwise prohibited by law from possessing or receiving them shall not be sufficient reason to deny cer-

tification under this section. If certification of the application is not completed, the chief law enforcement officer, or such officer's designee, shall provide written notification to the applicant that certification of the application cannot be completed and the reason for such denial of certification.

(b) Any applicant whose request for certification is denied pursuant to subsection (a), may appeal such denial to the district court of the county in which the applicant resides. The district court shall review any denial of certification de novo. If the district court finds that the applicant is not prohibited by state or federal law from receiving the firearm and that there is no pending legal or administrative proceeding against the applicant which could result in such prohibition, the district court shall order the chief law enforcement officer to issue the certification. In addition to such other relief as may be ordered, the district court may award the applicant court costs and reasonable attorney's fees.

(c) Any chief law enforcement officer who certifies and approves the transfer of a firearm pursuant to this section shall not be held liable in any civil or criminal action for any act committed by another person with such firearm following such transfer.

(d) For purposes of this section:

(1) "Certification" means the written certificate required under 27 C.F.R. § 479.85, in effect on January 24, 2003, to be completed by a chief law enforcement officer for the approval of an application to transfer a firearm.

(2) "Chief law enforcement officer" means a person holding any of the offices described in 27 C.F.R. § 479.85, in effect on January 24, 2003, as eligible to provide the required certification for the transfer of a firearm.

(3) "Firearm" shall have the same meaning as provided in the federal national firearms act, 26 U.S.C. § 5845, in effect as of the effective date of this act.

New Sec. 2. (a) No city or county shall expend any funds derived from the proceeds of any tax levied by such city or county or any political subdivision thereof, for the purpose of implementing, administering or otherwise operating a firearms buyback program.

(b) For purposes of this section:

(1) "Firearm" shall have the same meaning as that term is defined in K.S.A. 2013 Supp. 21-5111, and amendments thereto.

(2) "Firearms buyback program" means any program wherein individuals are offered the opportunity to gift, sell or otherwise transfer ownership of such individual's firearm to a city or county.

New Sec. 3. (a) No employee of a municipality shall be required to disclose to such person's employer the fact that such employee possesses a valid license to carry a concealed handgun. No employee shall be ter-

minated, demoted, disciplined or otherwise discriminated against due to such employee's refusal to disclose the fact that the employee possesses a valid license to carry a concealed handgun. No municipality shall create or maintain a record of an employee's possession of a valid license to carry a concealed handgun, or that an employee has disclosed the fact that such employee possesses a valid license to carry a concealed handgun. Any such record created and maintained by a municipality on or before June 30, 2014, shall be destroyed by such municipality on or before July 31, 2014.

(b) For purposes of this section, the term "municipality" has the same meaning as that term is defined in K.S.A. 75-6102, and amendments thereto.

(c) This section shall be a part of and supplemental to the personal and family protection act.

New Sec. 4. (a) No municipality shall be liable for any wrongful act or omission relating to the actions of any person carrying a firearm, including employees of such municipality, concerning acts or omissions regarding such firearm.

(b) For purposes of this section, the term "municipality" has the same meaning as that term is defined in K.S.A. 75-6102, and amendments thereto.

New Sec. 5. (a) Provided that the building is conspicuously posted in accordance with rules and regulations adopted by the attorney general as a building where carrying an unconcealed firearm is prohibited, it shall be unlawful to carry an unconcealed firearm into such building.

(b) Nothing in this section shall be construed to prohibit a law enforcement officer, as defined in K.S.A. 22-2202, and amendments thereto, from acting within the scope of such officer's duties.

(c) It shall be a violation of this section to carry an unconcealed firearm if the building is posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection (d). Any person who violates this section shall not be subject to a criminal penalty but may be subject to denial to such premises or removal from such premises.

(d) (1) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on a building where carrying an unconcealed firearm is prohibited pursuant to subsection (a). Such regulations shall prescribe, at a minimum, that:

(A) The signs be posted at all exterior entrances to the prohibited buildings;

(B) the signs be posted at eye level of adults using the entrance and not more than 12 inches to the right or left of such entrance;

(C) the signs not be obstructed or altered in any way;

(D) signs which become illegible for any reason be immediately replaced; and

(E) except as provided in paragraph (2), signs shall include the following, which shall be printed in large, conspicuous print: “The open carrying of firearms in this building is prohibited.”

(2) Such rules and regulations shall provide that the same signage used to prohibit the carrying of concealed handguns under K.S.A. 75-7c01 et seq., and amendments thereto, may be used to also prohibit the carrying of unconcealed firearms.

New Sec. 6. (a) Possession of a firearm under the influence is knowingly possessing or carrying a loaded firearm on or about such person, or within such person’s immediate access and control while in a vehicle, while under the influence of alcohol or drugs, or both, to such a degree as to render such person incapable of safely operating a firearm.

(b) Possession of a firearm under the influence is a class A nonperson misdemeanor.

(c) This section shall not apply to:

(1) A person who possesses or carries a firearm while in such person’s own dwelling or place of business or on land owned or possessed by such person; or

(2) the transitory possession or use of a firearm during an act committed in self-defense or in defense of another person or any other act committed if legally justified or excused, provided such possession or use lasts no longer than is immediately necessary.

(d) If probable cause exists for a law enforcement officer to believe a person is in possession of a firearm under the influence of alcohol or drugs, or both, such law enforcement officer shall request such person submit to one or more tests of the person’s blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The selection of the test or tests shall be made by the officer.

(e) (1) If a law enforcement officer requests a person to submit to a test of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by:

(A) A person licensed to practice medicine and surgery, licensed as a physician’s assistant, or a person acting under the direction of any such licensed person;

(B) a registered nurse or a licensed practical nurse;

(C) any qualified medical technician, including, but not limited to, an emergency medical technician-intermediate, mobile intensive care technician, an emergency medical technician-intermediate/defibrillator, an advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A. 65-6112, and amendments thereto, authorized by medical protocol; or

(D) a phlebotomist.

(2) A law enforcement officer may direct a medical professional described in this subsection to draw a sample of blood from a person if the person has given consent or upon meeting the requirements of subsection (d).

(3) When so directed by a law enforcement officer through a written statement, the medical professional shall withdraw the sample as soon as practical and shall deliver the sample to the law enforcement officer or another law enforcement officer as directed by the requesting law enforcement officer as soon as practical, provided the collection of the sample does not jeopardize the person's life, cause serious injury to the person or seriously impede the person's medical assessment, care or treatment. The medical professional authorized herein to withdraw the blood and the medical care facility where the blood is drawn may act on good faith that the requirements have been met for directing the withdrawing of blood once presented with the written statement provided for under this subsection. The medical professional shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

(4) Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting the blood sample shall complete the collection portion of a document provided by law enforcement.

(5) If a sample is to be taken under authority of a search warrant, and the person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the sample and without interfering with medical treatment.

(6) A law enforcement officer may request a urine sample upon meeting the requirements of subsection (d).

(7) If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by:

(A) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person;

(B) a registered nurse or a licensed practical nurse; or

(C) a law enforcement officer of the same sex as the person being tested.

The collection of the urine sample shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived

by the person being tested. When possible, the supervising person shall be a law enforcement officer. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence. If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in paragraphs (2) and (3) shall apply to the collection of a urine sample.

(8) The person performing or assisting in the performance of any such test and the law enforcement officer requesting any such test who is acting in accordance with this section shall not be liable in any civil and criminal proceeding involving the action.

(f) (1) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of possession of a firearm under the influence of alcohol or drugs, or both.

(2) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(3) In any criminal prosecution for a violation of this section, if the court finds that a person refused to submit to testing when requested pursuant to this section, the county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this section, a civil penalty not exceeding \$1,000 for each violation.

(g) If a person who holds a valid license to carry a concealed handgun issued pursuant to K.S.A. 2013 Supp. 75-7c01 et seq., and amendments thereto, is convicted of a violation of this section, such person's license to carry a concealed handgun shall be revoked for a minimum of one year for a first offense and three years for a second or subsequent offense.

(h) In any criminal prosecution for possession of a firearm under the influence of alcohol or drugs, or both, evidence of the concentration of alcohol or drugs in the defendant's blood, urine, breath or other bodily substance may be admitted and shall give rise to the following:

(1) If the alcohol concentration is less than .08, that fact may be considered with other competent evidence to determine if the defendant was under the influence of alcohol or drugs, or both.

(2) If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol.

(3) If there was present in the defendant's bodily substance any narcotic, hypnotic, somnifacient, stimulating or other drug which has the capacity to render the defendant incapacitated, that fact may be considered to determine if the defendant was under the influence of alcohol or drugs, or both.

(i) The provisions of subsection (h) shall not be construed as limiting

the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol or drugs, or both.

(j) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

Sec. 7. K.S.A. 2013 Supp. 12-16,124 is hereby amended to read as follows: 12-16,124. (a) No city or county shall adopt *or enforce* any ordinance, resolution or regulation, and no agent of any city or county shall take any administrative action, governing the purchase, transfer, ownership, storage, *carrying* or transporting of firearms or ammunition, or any component or combination thereof. ~~Except as provided in subsection (b) of this section and subsection (b) of K.S.A. 2013 Supp. 75-7c10, and amendments thereto, any such ordinance, resolution or regulation adopted prior to the effective date of this 2007 act shall be null and void.~~

(b) *No city or county shall adopt or enforce any ordinance, resolution or regulation relating to the sale of a firearm by an individual, who holds a federal firearms license, that is more restrictive than any ordinance, resolution or regulation relating to the sale of any other commercial good.*

(c) *Any ordinance, resolution or regulation prohibited by either subsection (a) or (b) that was adopted prior to July 1, 2014, shall be null and void.*

(d) Nothing in this section shall:

(1) *Prohibit a city or county from adopting and enforcing any ordinance, resolution or regulation relating to the personnel policies of such city or county and the carrying of firearms by employees of such city or county, except that any such ordinance, resolution or regulation shall comply with the provisions of K.S.A. 2013 Supp. 75-7c01 et seq., and amendments thereto;*

(2) *prohibit a city or county from adopting any ordinance, resolution or regulation pursuant to K.S.A. 2013 Supp. 75-7c20, and amendments thereto; or*

(3) *prohibit a law enforcement officer, as defined in K.S.A. 22-2202, and amendments thereto, from acting within the scope of such officer's duties;*

~~(2) prohibit a city or county from regulating the manner of openly carrying a loaded firearm on one's person, or in the immediate control of a person, not licensed or recognized under the personal and family protection act while on property open to the public;~~

~~(3) prohibit a city or county from regulating in any manner the carrying of any firearm in any jail, juvenile detention facility, prison, courthouse, courtroom or city hall; or~~

~~(4) prohibit a city or county from adopting an ordinance, resolution or regulation requiring a firearm transported in any air, land or water~~

vehicle to be unloaded and encased in a container which completely encloses the firearm or any less restrictive provision governing the transporting of firearms, provided such ordinance, resolution or regulation shall not apply to persons licensed or recognized under the personal and family protection act.

~~(c) Except as provided in subsection (b) of this section and subsection (b) of K.S.A. 2013 Supp. 75-7e10, and amendments thereto, no person shall be prosecuted or convicted of a violation of any ordinance, resolution or regulation of a city or county which regulates the storage or transportation of a firearm if such person: (1) Is storing or transporting the firearm without violating any provision of the Kansas criminal code; or (2) is otherwise transporting the firearm in a lawful manner.~~

~~(d) No person shall be prosecuted under any ordinance, resolution or regulation for transporting a firearm in any air, land or water vehicle if the firearm is unloaded and encased in a container which completely encloses the firearm.~~

Sec. 8. K.S.A. 2013 Supp. 12-16,134 is hereby amended to read as follows: 12-16,134. (a) A municipality shall not enact *or enforce* any ordinance, resolution, ~~rule~~ *regulation* or tax relating to the transportation, possession, carrying, sale, transfer, purchase, gift, devise, licensing, registration or use of a knife or knife making components.

(b) A municipality shall not enact *or enforce* any ordinance, resolution or ~~rule~~ *regulation* relating to the manufacture of a knife that is more restrictive than any such ordinance, resolution or ~~rule~~ *regulation* relating to the manufacture of any other commercial goods.

(c) *Any ordinance, resolution or regulation prohibited by either subsection (a) or (b) that was adopted prior to July 1, 2014, shall be null and void.*

(d) *No action shall be commenced or prosecuted against any individual for a violation of any ordinance, resolution or regulation that is prohibited by either subsection (a) or (b) and which was adopted prior to July 1, 2014, if such violation occurred on or after July 1, 2013.*

~~(c)~~(e) As used in this section:

(1) “Knife” means a cutting instrument and includes a sharpened or pointed blade.

(2) “Municipality” has the same meaning as defined in K.S.A. 75-6102, and amendments thereto, but shall not include *unified* school districts, jails, as defined in K.S.A. 38-2302, and amendments thereto, ~~and~~ *or* juvenile correctional facilities, as defined in K.S.A. 38-2302, and amendments thereto.

Sec. 9. K.S.A. 2013 Supp. 12-4516 is hereby amended to read as follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d) ~~and~~, (e) *and* (f), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the

expungement of such conviction and related arrest records if three or more years have elapsed since the person:

- (A) Satisfied the sentence imposed; or
- (B) was discharged from probation, parole or a suspended sentence.

(2) Except as provided in subsections (b), (c), ~~(d)~~ and (e) and (f), any person who has fulfilled the terms of a diversion agreement based on a violation of a city ordinance of this state may petition the court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

*(b) Any person convicted of a violation of any ordinance that is prohibited by either subsection (a) or (b) of K.S.A. 2013 Supp. 12-16,134, and amendments thereto, and which was adopted prior to July 1, 2014, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records.*

~~(b)~~(c) Any person convicted of the violation of a city ordinance which would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a violation of K.S.A. 2013 Supp. 21-6419, and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence; and

(2) such person can prove they were acting under coercion caused by the act of another. For purposes of this subsection, “coercion” means: Threats of harm or physical restraint against any person; a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

~~(c)~~(d) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2013 Supp. 21-5406, and amendments thereto;

(2) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto;

(4) a violation of the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications;

(5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(6) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and amendments thereto;

(7) a violation of the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(8) a violation of K.S.A. 21-3405b, prior to its repeal.

~~(d)~~(e) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute a violation of K.S.A. 8-1567, and amendments thereto.

~~(e)~~(f) There shall be no expungement of convictions or diversions for a violation of a city ordinance which would also constitute a violation of K.S.A. 8-2,144, and amendments thereto.

~~(f)~~(g) (1) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. The petition shall state the:

(A) Defendant's full name;

(B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(C) defendant's sex, race and date of birth;

(D) crime for which the defendant was arrested, convicted or diverted;

(E) date of the defendant's arrest, conviction or diversion; and

(F) identity of the convicting court, arresting law enforcement agency or diverting authority.

(2) A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section.

(3) Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the prisoner review board.

~~(g)~~(h) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two

years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

~~(4)~~(i) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department for children and families;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

(F) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(G) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(H) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(I) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-12a102, and amendments thereto;

(J) in any application for employment as a law enforcement officer, as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 2013 Supp. 75-7c01 et seq., and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the arrest, conviction or diversion is to be disclosed; and

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged.

~~(i)~~(j) Whenever a person is convicted of an ordinance violation, pleads guilty and pays a fine for such a violation, is placed on parole or probation or is granted a suspended sentence for such a violation, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

~~(j)~~(k) Subject to the disclosures required pursuant to subsection ~~(g)~~(i), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of an offense has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such offense.

~~(k)~~(l) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of the department for children and families, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department for children and families of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(12) the Kansas securities commissioner, or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser represen-

tative by such agency and the application was submitted by the person whose record has been expunged;

(13) the attorney general, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act;

(14) the Kansas sentencing commission;

(15) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

(16) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto.

Sec. 10. K.S.A. 2013 Supp. 12-4516a is hereby amended to read as follows: 12-4516a. (a) Any person who has been arrested on a violation of a city ordinance of this state may petition the court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. When a petition for expungement is filed, the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order. The petition shall state:

(1) The petitioner's full name;

(2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;

(3) the petitioner's sex, race and date of birth;

(4) the crime for which the petitioner was arrested;

(5) the date of the petitioner's arrest; and

(6) the identity of the arresting law enforcement agency.

A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section, except that no fee shall be charged to a person who was arrested as a result of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal, or K.S.A. 2013 Supp. 21-6107, and amendments thereto. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(c) At the hearing on a petition for expungement, the court shall order the arrest record and subsequent court proceedings, if any, expunged upon finding:

- (1) The arrest occurred because of mistaken identity;
- (2) a court has found that there was no probable cause for the arrest;
- (3) the petitioner was found not guilty in court proceedings;
- (4) *the arrest was for a violation of any ordinance that is prohibited by either subsection (a) or (b) of K.S.A. 2013 Supp. 12-16,134, and amendments thereto, and which was adopted prior to July 1, 2014;* or
- ~~(4)~~(5) the expungement would be in the best interests of justice and:  
(A) Charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection ~~(c)~~(4) ~~(c)~~(5), the court shall determine whether, in the interest of public welfare, the records should be available for any of the following purposes:

(1) In any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

(2) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(3) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(4) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(5) in any application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(6) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(7) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(8) in any other circumstances which the court deems appropriate.

(f) The court shall make all expunged records and related information in such court's possession, created prior to, on and after July 1, 2011, available to the Kansas bureau of investigation for the purposes of:

(1) Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(2) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(g) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(h) Whenever a petitioner's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

Sec. 11. K.S.A. 2013 Supp. 21-6301 is hereby amended to read as follows: 21-6301. (a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing or possessing any bludgeon, sand club, metal knuckles or throwing star;

(2) possessing with intent to use the same unlawfully against another, a *dagger*, *dirk*, billy, blackjack, slungshot, *dangerous knife*, *straight-edged razor*, *stiletto* or any other dangerous or deadly weapon or instrument of like character;

(3) setting a spring gun;

(4) possessing any device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm;

(5) selling, manufacturing, purchasing or possessing a shotgun with a barrel less than 18 inches in length, or any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger, whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically;

(6) possessing, manufacturing, causing to be manufactured, selling,

offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than 60% lead by weight, whether the person knows or has reason to know that the plastic-coated bullet has a core of less than 60% lead by weight;

(7) selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age whether the person knows or has reason to know the length of the barrel;

(8) selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;

(9) selling, giving or otherwise transferring any firearm to any person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto;

(10) ~~possession of~~ *possessing* any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(11) ~~possession of~~ *possessing* any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades ~~1~~ *one* through 12 or at any regularly scheduled school sponsored activity or event whether the person knows or has reason to know that such person was in or on any such property or grounds;

(12) ~~refusal~~ *refusing* to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer;

(13) ~~possession of~~ *possessing* any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto; or

(14) possessing a firearm with a barrel less than 12 inches long by any person less than 18 years of age ~~whether the person knows or has reason to know the length of the barrel.~~

(b) Criminal use of weapons as defined in:

(1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a class A nonperson misdemeanor;

(2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson felony;

(3) subsection (a)(10) or (a)(11) is a class B nonperson select misdemeanor;

(4) subsection (a)(13) is a severity level 8, nonperson felony; and

(5) subsection (a)(14) is a:

(A) Class A nonperson misdemeanor except as provided in subsection (b)(5)(B);

(B) severity level 8, nonperson felony upon a second or subsequent conviction.

(c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.

(d) Subsections (a)(4) and (a)(5) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) Subsection (a)(6) shall not apply to a governmental laboratory or solid plastic bullets.

(f) Subsection (a)(4) shall not apply to a law enforcement officer who is:

(1) Assigned by the head of such officer's law enforcement agency to a tactical unit which receives specialized, regular training;

(2) designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(4); and

(3) in possession of commercially manufactured devices which are:

(A) Owned by the law enforcement agency;

(B) in such officer's possession only during specific operations; and

(C) approved by the bureau of alcohol, tobacco, firearms and explosives of the United States department of justice.

(g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person employed by a laboratory which is certified by the United States depart-

ment of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory.

(h) Subsections (a)(4) and (a)(5) shall not apply to or affect any person or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et seq.

(i) Subsection (a)(11) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

(2) ~~any~~ possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student;

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day; or

(5) possession of a handgun by an individual who is licensed by the attorney general to carry a concealed handgun under K.S.A. 2013 Supp. 75-7c01 et seq., and amendments thereto.

(j) Subsections (a)(9) and (a)(13) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 2013 Supp. 75-7c26, and amendments thereto.

(k) Subsection (a)(14) shall not apply if such person, less than 18 years of age, was:

(1) In attendance at a hunter's safety course or a firearms safety course;

(2) engaging in practice in the use of such firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located, *or at another private range with permission of such person's parent or legal guardian*;

(3) engaging in an organized competition involving the use of such firearm, or participating in or practicing for a performance by an organization exempt from federal income tax pursuant to section 501(c)(3) of the internal revenue code of 1986 which uses firearms as a part of such performance;

(4) hunting or trapping pursuant to a valid license issued to such person pursuant to article 9 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(5) traveling with any such firearm in such person's possession being unloaded to or from any activity described in subsections (k)(1) through

(k)(4), only if such firearm is secured, unloaded and outside the immediate access of such person;

(6) on real property under the control of such person's parent, legal guardian or grandparent and who has the permission of such parent, legal guardian or grandparent to possess such firearm; or

(7) at such person's residence and who, with the permission of such person's parent or legal guardian, possesses such firearm for the purpose of exercising the rights contained in K.S.A. 2013 Supp. 21-5222, 21-5223 or 21-5225, and amendments thereto.

(l) As used in this section, "throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

Sec. 12. K.S.A. 2013 Supp. 21-6304 is hereby amended to read as follows: 21-6304. (a) Criminal possession of a ~~firearm~~ *weapon* by a convicted felon is possession of any ~~firearm~~ *weapon* by a person who:

(1) Has been convicted of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, *K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer*, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, or a crime under a law of another jurisdiction which is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, *K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer*, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, and was found to have been in possession of a firearm at the time of the commission of the crime;

(2) within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(3)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was not found to have been in possession of a firearm at the time of the commission of the crime; or

(3) within the preceding 10 years, has been convicted of a:

(A) Felony under K.S.A. 2013 Supp. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, subsection (b) or (d) of 21-5412, subsection (b) or (d) of 21-5413, subsection (a) of 21-5415, subsection (b) of 21-5420, 21-5503, subsection (b) of 21-5504, subsection (b) of 21-5505, and subsection (b) of 21-5807, and amendments thereto; article 57 of chapter 21 of the

Kansas Statutes Annotated, and amendments thereto; K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006, prior to their repeal; an attempt, conspiracy or criminal solicitation as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2013 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such felony; or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, was not found to have been in possession of a firearm at the time of the commission of the crime, and has not had the conviction of such crime expunged or been pardoned for such crime. The provisions of subsection (j)(2) of K.S.A. 2013 Supp. 21-6614, and amendments thereto, shall not apply to an individual who has had a conviction under this paragraph expunged; or

(B) nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the crime.

(b) Criminal possession of a ~~firearm~~ *weapon* by a convicted felon is a severity level 8, nonperson felony.

(c) *As used in this section:*

(1) *“Knife” means a dagger, dirk, switchblade, stiletto, straight-edged razor or any other dangerous or deadly cutting instrument of like character; and*

(2) *“weapon” means a firearm or a knife.*

Sec. 13. K.S.A. 2013 Supp. 22-2512 is hereby amended to read as follows: 22-2512. (†)(a) Property seized under a search warrant or validly seized without a warrant shall be safely kept by the officer seizing the same unless otherwise directed by the magistrate, and shall be so kept as long as necessary for the purpose of being produced as evidence on any trial. The property seized may not be taken from the officer having it in custody so long as it is or may be required as evidence in any trial. The officer seizing the property shall give a receipt to the person detained or arrested particularly describing each article of property being held and shall file a copy of such receipt with the magistrate before whom the person detained or arrested is taken. Where seized property is no longer required as evidence in the prosecution of any indictment or information, the court which has jurisdiction of such property may transfer the same

to the jurisdiction of any other court, including courts of another state or federal courts, where it is shown to the satisfaction of the court that such property is required as evidence in any prosecution in such other court.

~~(2)~~ ~~(a)~~ ~~(b)~~ (1) Notwithstanding the provisions of subsection ~~(1)~~ ~~(a)~~ and with the approval of the affected court, any law enforcement officer who seizes hazardous materials as evidence related to a criminal investigation may collect representative samples of such hazardous materials, and lawfully destroy or dispose of, or direct another person to lawfully destroy or dispose of the remaining quantity of such hazardous materials.

~~(b)~~ (2) In any prosecution, representative samples of hazardous materials accompanied by photographs, videotapes, laboratory analysis reports or other means used to verify and document the identity and quantity of the material shall be deemed competent evidence of such hazardous materials and shall be admissible in any proceeding, hearing or trial as if such materials had been introduced as evidence.

~~(c)~~ (3) As used in this section, the term “hazardous materials” means any substance which is capable of posing an unreasonable risk to health, safety and property. It shall include any substance which by its nature is explosive, flammable, corrosive, poisonous, radioactive, a biological hazard or a material which may cause spontaneous combustion. It shall include, but not be limited to, substances listed in the table of hazardous materials contained in the code of federal regulations title 49 and national fire protection association’s fire protection guide on hazardous materials.

~~(d)~~ (4) The provisions of this subsection shall not apply to ammunition and components thereof.

~~(3)~~ (c) When property seized is no longer required as evidence, it shall be disposed of as follows:

~~(a)~~ (1) Property stolen, embezzled, obtained by false pretenses, or otherwise obtained unlawfully from the rightful owner thereof shall be restored to the owner;

~~(b)~~ (2) money shall be restored to the owner unless it was contained in a slot machine or otherwise used in unlawful gambling or lotteries, in which case it shall be forfeited, and shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto;

~~(c)~~ (3) property which is unclaimed or the ownership of which is unknown shall be sold at public auction to be held by the sheriff and the proceeds, less the cost of sale and any storage charges incurred in preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto;

~~(d)~~ (4) articles of contraband shall be destroyed, except that any such articles the disposition of which is otherwise provided by law shall be dealt with as so provided and any such articles the disposition of which is not otherwise provided by law and which may be capable of innocent use may in the discretion of the court be sold and the proceeds disposed of as provided in subsection ~~(2)~~ ~~(b)~~ (c)(3);

~~(e)(5) firearms, ammunition, explosives, bombs and like devices, which have been used in the commission of crime, may be returned to the rightful owner, or in the discretion of the court having jurisdiction of the property, destroyed or forfeited to the Kansas bureau of investigation as provided in K.S.A. 2013 Supp. 21-6307, and amendments thereto;~~

(6) (A) *except as provided in subsections (c)(6)(B) and (d), any weapon or ammunition, in the discretion of the court having jurisdiction of the property, shall be:*

(i) *Forfeited to the law enforcement agency seizing the weapon for use within such agency, for sale to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use;*

(ii) *forfeited to the Kansas bureau of investigation for law enforcement, testing or comparison by the Kansas bureau of investigation forensic laboratory;*

(iii) *forfeited to a county regional forensic science center, or other county forensic laboratory for testing, comparison or other forensic science purposes; or*

(iv) *forfeited to the Kansas department of wildlife, parks and tourism for use pursuant to the conditions set forth in K.S.A. 32-1047, and amendments thereto.*

(B) *Except as provided in subsection (d), any weapon which cannot be forfeited pursuant to subsection (c)(6)(A) due to the condition of the weapon, and any weapon which was used in the commission of a felony as described in K.S.A. 2013 Supp. 21-5401, 21-5402, 21-5403, 21-5404 or 21-5405, and amendments thereto, shall be destroyed.*

~~(f)(7) controlled substances forfeited for violations of K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt with as provided under K.S.A. 60-4101 through 60-4126, and amendments thereto;~~

~~(g)(8) unless otherwise provided by law, all other property shall be disposed of in such manner as the court in its sound discretion shall direct.~~

(d) *If a weapon is seized from an individual and the individual is not convicted of or adjudicated as a juvenile offender for the violation for which the weapon was seized, then within 30 days after the declination or conclusion of prosecution of the case against the individual, including any period of appeal, the law enforcement agency that seized the weapon shall verify that the weapon is not stolen, and upon such verification shall notify the person from whom it was seized that the weapon may be retrieved. Such notification shall include the location where such weapon may be retrieved.*

(e) *If weapons are sold as authorized by subsection (c)(6)(A), the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency.*

(f) *For purposes of this section, the term “weapon” means a weapon described in K.S.A. 2013 Supp. 21-6301, and amendments thereto.*

Sec. 14. K.S.A. 2013 Supp. 32-1047 is hereby amended to read as follows: 32-1047. The department is hereby empowered and directed to seize and possess any wildlife which is taken, possessed, sold or transported unlawfully, and any steel trap, snare or other device or equipment used in taking or transporting wildlife unlawfully or during closed season. The department is hereby authorized and directed to:

(a) Sell the seized item, including wildlife parts with a dollar value, and remit the proceeds to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. If the seized item is a firearm that has been forfeited pursuant to ~~K.S.A. 2013 Supp. 21-6307~~ 22-2512, and amendments thereto, then it may be sold unless: (1) The firearm is significantly altered in any manner; or (2) the sale and public possession of such firearm is otherwise prohibited by law. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the wildlife fee fund; or

(b) retain the seized item for educational, scientific or department operational purposes.

Sec. 15. K.S.A. 2013 Supp. 75-7c04 is hereby amended to read as follows: 75-7c04. (a) The attorney general shall not issue a license pursuant to this act if the applicant:

(1) Is not a resident of the county where application for licensure is made or is not a resident of the state;

(2) is prohibited from shipping, transporting, possessing or receiving a firearm or ammunition under 18 U.S.C. § 922(g) or (n), and amendments thereto, or K.S.A. 21-4204, prior to its repeal, or subsections (a)(10) through (a)(13) of K.S.A. 2013 Supp. 21-6301 or subsections (a)(1) through (a)(3) of K.S.A. 2013 Supp. 21-6304, and amendments thereto;

~~or~~

(3) *has been convicted of or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of any of the offenses described in subsections (a)(1) and (a)(3)(A) of K.S.A. 2013 Supp. 21-6304, and amendments thereto; or*

(4) is less than 21 years of age.

(b) (1) The attorney general shall adopt rules and regulations establishing procedures and standards as authorized by this act for an eight-hour handgun safety and training course required by this section. Such standards shall include: (A) A requirement that trainees receive training in the safe storage of handguns, actual firing of handguns and instruction in the laws of this state governing the carrying of concealed handguns and the use of deadly force; (B) general guidelines for courses which are compatible with the industry standard for basic handgun training for civilians; (C) qualifications of instructors; and (D) a requirement that the

course be: (i) A handgun course certified or sponsored by the attorney general; or (ii) a handgun course certified or sponsored by the national rifle association or by a law enforcement agency, college, private or public institution or organization or handgun training school, if the attorney general determines that such course meets or exceeds the standards required by rules and regulations adopted by the attorney general and is taught by instructors certified by the attorney general or by the national rifle association, if the attorney general determines that the requirements for certification of instructors by such association meet or exceed the standards required by rules and regulations adopted by the attorney general. Any person wanting to be certified by the attorney general as an instructor shall submit to the attorney general an application in the form required by the attorney general and a fee not to exceed \$150.

(2) The cost of the handgun safety and training course required by this section shall be paid by the applicant. The following shall constitute satisfactory evidence of satisfactory completion of an approved handgun safety and training course:

(A) Evidence of completion of the course, in the form provided by rules and regulations adopted by the attorney general;

(B) an affidavit from the instructor, school, club, organization or group that conducted or taught such course attesting to the completion of the course by the applicant; or

(C) a determination by the attorney general pursuant to subsection (d) of K.S.A. 2013 Supp. 75-7c03, and amendments thereto.

Sec. 16. K.S.A. 2013 Supp. 75-7c20 is hereby amended to read as follows: 75-7c20. (a) The carrying of a concealed handgun as authorized by the personal and family protection act shall not be prohibited in any state or municipal building unless such building has adequate security measures to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 2013 Supp. 75-7c10, and amendments thereto.

(b) Any state or municipal building which contains both public access entrances and restricted access entrances shall provide adequate security measures at the public access entrances in order to prohibit the carrying of any weapons into such building.

(c) No state agency or municipality shall prohibit an employee who is licensed to carry a concealed handgun under the provisions of the personal and family protection act from carrying such concealed handgun at the employee's work place unless the building has adequate security measures and the building is conspicuously posted in accordance with K.S.A. 2013 Supp. 75-7c10, and amendments thereto.

(d) It shall not be a violation of the personal and family protection act for a person to carry a concealed handgun into a state or municipal building so long as that person is licensed to carry a concealed handgun

under the provisions of the personal and family protection act and has authority to enter through a restricted access entrance into such building which provides adequate security measures and the building is conspicuously posted in accordance with K.S.A. 2013 Supp. 75-7c10, and amendments thereto.

(e) A state agency or municipality which provides adequate security measures in a state or municipal building and which conspicuously posts signage in accordance with K.S.A. 2013 Supp. 75-7c10, and amendments thereto, prohibiting the carrying of a concealed handgun in such building, as authorized by the personal and family protection act, such state agency or municipality shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.

(f) A state agency or municipality which does not provide adequate security measures in a state or municipal building and which allows the carrying of a concealed handgun as authorized by the personal and family protection act shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.

(g) Nothing in this act shall limit the ability of a corrections facility, a jail facility or a law enforcement agency to prohibit the carrying of a handgun or other firearm concealed or unconcealed by any person into any secure area of a building located on such premises, except those areas of such building outside of a secure area and readily accessible to the public shall be subject to the provisions of subsection (b).

(h) Nothing in this section shall limit the ability of the chief judge of each judicial district to prohibit the carrying of a concealed handgun by any person into courtrooms or ancillary courtrooms within the district provided that other means of security are employed such as armed law enforcement or armed security officers.

(i) The governing body or the chief administrative officer, if no governing body exists, of a state or municipal building, may exempt the building from this section until January 1, 2014, by notifying the Kansas attorney general and the law enforcement agency of the local jurisdiction by letter of such exemption. Thereafter, such governing body or chief administrative officer may exempt a state or municipal building for a period of only four years by adopting a resolution, or drafting a letter, listing the legal description of such building, listing the reasons for such exemption, and including the following statement: "A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun as authorized by the personal and family protection act." A copy of the security plan for the building shall be maintained on file and shall be made available, upon request, to the Kansas attorney general and the law enforcement agency of local jurisdiction. Notice of

this exemption, together with the resolution adopted or the letter drafted, shall be sent to the Kansas attorney general and to the law enforcement agency of local jurisdiction. The security plan shall not be subject to disclosure under the Kansas open records act.

(j) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may exempt any building of such institution from this section for a period of four years only by stating the reasons for such exemption and sending notice of such exemption to the Kansas attorney general:

(1) A state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;

(2) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;

(3) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto;

(4) an indigent health care clinic, as defined by K.S.A. 2013 Supp. 65-7402, and amendments thereto; or

(5) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, including any buildings located on the grounds of such institution and any buildings leased by such institution.

(k) The provisions of this section shall not apply to any building located on the grounds of the Kansas state school for the deaf or the Kansas state school for the blind.

(l) For purposes of this section:

(1) “Adequate security measures” means the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building by members of the public. Adequate security measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options may be provided at public entrances.

(2) The terms “municipality” and “municipal” are interchangeable and have the same meaning as the term “municipality” is defined in K.S.A. 75-6102, and amendments thereto, but does not include school districts.

(3) “Restricted access entrance” means an entrance that is restricted to the public and requires a key, keycard, code, or similar device to allow entry to authorized personnel.

(4) “State” means the same as the term is defined in K.S.A. 75-6102, and amendments thereto.

(5) (A) “State or municipal building” means a building owned or leased by such public entity. It does not include a building owned by the state or a municipality which is leased by a private entity whether for

profit or not-for-profit or a building held in title by the state or a municipality solely for reasons of revenue bond financing.

(B) On and after July 1, 2014, provided that the provisions of K.S.A. 2013 Supp. 75-7c21, and amendments thereto, are in full force and effect, the term “state and municipal building” shall not include the state capitol.

(6) “Weapon” means a weapon described in K.S.A. 2013 Supp. 21-6301, and amendments thereto, *except the term “weapon” shall not include any cutting instrument that has a sharpened or pointed blade.*

(m) This section shall be a part of and supplemental to the personal and family protection act.

Sec. 17. K.S.A. 2013 Supp. 12-16,124, 12-16,134, 12-4516, 12-4516a, 21-6301, 21-6304, 21-6307, 22-2512, 32-1047, 75-7c04, 75-7c12 and 75-7c20 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 22, 2014.

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## CHAPTER 98

### HOUSE BILL No. 2130

AN ACT concerning elections; relating to petitions; relating to ballot language statements; amending K.S.A. 2012 Supp. 25-205, 25-302a, 25-303, 25-3602, 25-4005, 25-4310 and 25-4320 and repealing the existing sections.

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

New Section 1. (a) A county election officer may request the preparation of a ballot language statement for the purposes of explaining the language of a ballot question of any municipality as defined by K.S.A. 75-6102, and amendments thereto.

(1) If a request is submitted pursuant to this subsection and if the ballot question language was derived from a petition submitted to the office of the county attorney, district attorney or county counselor pursuant to K.S.A. 25-3601, and amendments thereto, such county election officer shall, within 10 days of certification, request the office of the county attorney, district attorney or county counselor, as applicable, to prepare the ballot language statement in compliance with the requirements of paragraph (3).

(2) If a request is submitted pursuant to this subsection and if the ballot question language did not derive from a petition submitted to the office of the county attorney, district attorney or county counselor pursuant to K.S.A. 25-3601, and amendments thereto, such county election officer shall, within 10 days of publication, request the office of secretary

of state to prepare the ballot language statement in compliance with the requirements of paragraph (3).

(3) A ballot language statement shall fairly and accurately explain what a vote for and what a vote against the measure represents. Such ballot language statements shall be true and impartial statements of the effect of a vote for and against the measure in language neither intentionally argumentative nor likely to create prejudice for or against the proposed measure. A ballot language statement shall be prepared and transmitted in good faith and without malice.

(b) (1) Within 15 days of a request by a county election officer to prepare a ballot language statement pursuant to subsection (a)(1), the office of the county attorney, district attorney or county counselor, as applicable, shall prepare and forward such ballot language statement to the office of secretary of state for approval by the secretary of state or the secretary of state's designee that such ballot language statement complies with the requirements of subsection (a)(3). Within five days following the receipt of the ballot language statement, the office of secretary of state shall furnish the county election officer with the ballot language statement as approved by the office of secretary of state as in compliance with the requirements of subsection (a)(3).

(2) Within 15 days of a request by a county election officer to prepare a ballot language statement pursuant to subsection (a)(2), the secretary of state or the secretary's designee shall prepare and forward such ballot language statement to the office of the attorney general for approval by the attorney general, or any assistant attorney general, that such ballot language statement complies with the requirements of subsection (a)(3). Within five days following the receipt of the ballot language statement, the office of the attorney general shall furnish the county election officer with the ballot language statement as approved by the office of the attorney general as in compliance with the requirements of subsection (a)(3).

(c) A ballot language statement prepared under this section shall be:

(1) Posted in each polling place, but shall not be placed on the ballot;  
(2) provided to registered voters voting by advance ballot. Such ballot language statement shall not be placed on the ballot when provided to a registered voter voting by advance ballot; and

(3) made available for public inspection in the office of the county election officer. A ballot language statement prepared under this section may be posted on the official website of the county.

(d) There shall be no cause of action at law or in equity challenging the validity of the form of a ballot language statement prepared under this section. There shall be no liability on the part of and no cause of action of any nature shall arise against the attorney general, any assistant attorney general, the secretary of state, the secretary of state's employees, the county election officer, the county attorney, the district attorney or

the county counselor as a result of the preparation of a ballot language statement under this section. The preparation of a ballot language statement shall not form any basis for an election contest or result in the waiver of any immunity by the state or any of its subdivisions.

(e) If the ballot language statement is not available to insert with the advance ballots, no ballot language statement shall be prepared or made available at the polling place, office of the county election officer, on the official website of the county or the news media.

(f) The secretary of state may promulgate by rules and regulations the rights and responsibilities of election officials which shall be taught to all election officials to aid such officials in understanding their jobs.

Sec. 2. K.S.A. 2012 Supp. 25-205 is hereby amended to read as follows: 25-205. (a) Except as otherwise provided in this section, the names of candidates for national, state, county and township offices shall be printed upon the official primary ballot when each shall have qualified to become a candidate by one of the following methods and none other: (1) They shall have had filed in their behalf, not later than 12 noon, June 1, prior to such primary election, or if such date falls on Saturday, Sunday or a holiday, then before 12 noon of the next following day that is not a Saturday, Sunday or a holiday, nomination petitions, as provided for in this act; or (2) they shall have filed not later than the time for filing nomination petitions, as above provided, with the proper officer a declaration of intention to become a candidate, accompanied by the fee required by law. Such declaration shall be prescribed by the secretary of state.

(b) Nomination petitions shall be in substantially the following form:

I, the undersigned, an elector of the county of \_\_\_\_\_, and state of Kansas, and a duly registered voter, and a member of \_\_\_\_\_ party, hereby nominate \_\_\_\_\_, who resides in the township of \_\_\_\_\_ (or at number \_\_\_\_\_ on \_\_\_\_\_ street, city of \_\_\_\_\_), in the county of \_\_\_\_\_ and state of Kansas, as a candidate for the office of (here specify the office) \_\_\_\_\_, to be voted for at the primary election to be held on the first Tuesday in August in \_\_\_\_\_, as representing the principles of such party; and I further declare that I intend to support the candidate herein named and that I have not signed and will not sign any nomination petition for any other person, for such office at such primary election.

(HEADING)

Name of Signers.	Street Number or Rural Route (as registered).	Name of City.	Date of Signing.
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All nomination petitions shall have substantially the foregoing form,

written or printed at the top thereof. No signature shall be counted unless it is upon a sheet having such written or printed form at the top thereof.

(c) Each signer of a nomination petition shall sign but one such petition for the same office, and shall declare that such person intends to support the candidate therein named, and shall add to such person's signature and residence, if in a city, by street and number (if any); or, otherwise by post-office address. No signature shall be counted unless the place of residence of the signer is clearly indicated and the date of signing given as herein required and if ditto marks are used to indicate address they shall be continuous and clearly made. Such sheets shall not be cut or pasted together.

(d) All signers of each separate nomination petition shall reside in the same county and election district of the office sought. The affidavit described in this paragraph of a petition circulator ~~who is a resident of the state of Kansas and has the qualifications of an elector in the state of Kansas as defined in section 8, and amendments thereto~~, or of the candidate shall be appended to each petition and shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator *or the candidate*, to the effect that such circulator or the candidate personally witnessed the signing of the petition by each person whose name appears thereon.

(e) Except as otherwise provided in subsection (g), nomination petitions shall be signed:

(1) If for a state officer elected on a statewide basis or for the office of United States senator, by voters equal in number to not less than 1% of the total of the current voter registration of the party designated in the state as compiled by the office of the secretary of state;

(2) If for a state or national officer elected on less than a statewide basis, by voters equal in number to not less than 2% of the total of the current voter registration of the party designated in such district as compiled by the office of the secretary of state, except that for the office of district magistrate judge, by not less than 2% of the total of the current voter registration of the party designated in the county in which such office is to be filled as certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto;

(3) If for a county office, by voters equal in number to not less than 3% of the total of the current voter registration of the party designated in such district or county as compiled by the county election officer and certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto; and

(4) If for a township office, by voters equal in number to not less than 3% of the total of the current voter registration of the party designated in such township as compiled by the county election officer and certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto.

(f) Subject to the requirements of K.S.A. 25-202, and amendments thereto, any political organization filing nomination petitions for a majority of the state or county offices, as provided in this act, shall have a separate primary election ballot as a political party and, upon receipt of such nomination petitions, the respective officers shall prepare a separate state and county ballot for such new party in their respective counties or districts thereof in the same manner as is provided for existing parties.

(g) In any year in which districts are reapportioned for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas or member of the state board of education:

(1) If new boundary lines are defined and districts established in the manner prescribed by law on or before May 10, nomination petitions for nomination to such offices shall be signed by voters equal in number to not less than 1% of the total of the current voter registration of the party designated in the district as compiled by the office of the secretary of state.

(2) If new boundary lines are defined and districts established in the manner prescribed by law on or after May 11, nomination petitions for nomination to the following offices shall be signed by registered voters of the party designated in the district equal in number to not less than the following:

(A) For the office of representative in the United States congress 1,000 registered voters;

(B) for the office of member of the state board of education 300 registered voters;

(C) for the office of state senator 75 registered voters; and

(D) for the office of state representative 25 registered voters.

(h) In any year in which districts are reapportioned for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas or member of the state board of education:

(1) If new boundary lines are defined and districts established in the manner prescribed by law on or before May 10, the deadline for filing nomination petitions and declarations of intention to become a candidate for such office, accompanied by the fee required by law, shall be 12 noon on June 1, or if such date falls on a Saturday, Sunday or a holiday, then before 12 noon of the next following day that is not a Saturday, Sunday or holiday.

(2) If new boundary lines are defined and districts established in the manner prescribed by law on or after May 11, the deadline for filing nomination petitions and declarations of intention to become a candidate for such office, accompanied by the fee required by law, shall be 12 noon on June 10, or if such date falls on a Saturday, Sunday or holiday, then before 12 noon of the next day that is not a Saturday, Sunday or holiday.

Sec. 3. K.S.A. 2012 Supp. 25-302a is hereby amended to read as follows: 25-302a. Any political party seeking official recognition in this state after the effective date of this act shall file in its behalf, not later than ~~12:00~~ 12 noon, June 1, prior to the primary election held on the first Tuesday of August in even-numbered years, or if such date falls on a Saturday, Sunday or a holiday, then before ~~12:00~~ 12 noon of the next following day that is not a Saturday, Sunday or a holiday petitions signed by qualified electors equal in number to at least 2% of the total vote cast for all candidates for the office of governor in the state in the last preceding general election. Such petitions shall declare support for the official recognition of a political party, the name of which shall be stated in the declaration. No political party seeking official recognition shall assume a name or designation which, in the opinion of the secretary of state, is unreasonably lengthy or so similar to the name or designation of an existing political party as to confuse or mislead the voters at an election.

Petitions seeking official recognition of a political party shall be substantially in the following form:

PETITION SEEKING THE OFFICIAL RECOGNITION  
OF THE \_\_\_\_\_ PARTY IN THE STATE OF KANSAS

I, the undersigned, hereby declare my support for the official recognition of the \_\_\_\_\_ Party.

I have personally signed this petition; I am a registered elector of the state of Kansas and the County of \_\_\_\_\_, and my residence address is correctly written after my name.

NAME OF SIGNER    ADDRESS AS REGISTERED    CITY    DATE OF SIGNING

Appended to each petition page or set of pages shall be an affidavit by the *petition circulator as defined in section 8, and amendments thereto*, of the petition affirming that such circulator ~~is a resident of the state of Kansas and has the qualifications of an elector in Kansas and that the circulator~~ personally witnessed the signing of the petition by each person whose name appears thereon. The affidavit shall be executed before a person authorized to administer oaths and include the address of the circulator.

Each page of such petition shall bear the names of registered voters of a single county. All petitions shall be grouped according to the county in which each was circulated before being filed with the secretary of state. All such petitions shall be filed at one time. Any related petitions presented thereafter will be deemed to be separate and not a part of earlier filings. County election officers shall cooperate with the secretary of state in verifying the sufficiency of these petitions as required by law.

The secretary of state shall transmit such petitions to the county election officer of each county for which petitions were presented to be examined for sufficiency pursuant to the provisions of K.S.A. 25-3601 et

seq., and amendments thereto, and applicable regulations. Not more than 20 days following receipt of such petitions from the secretary of state, the county election officer shall return these documents to the secretary of state certifying the number of sufficient signatures thereon. The secretary of state shall gather all petitions and determine whether a sufficient number of signatures was submitted. The secretary of state shall forthwith notify the person who submitted the declaration of intent to circulate such petitions of the sufficiency or insufficiency of the number of signatures.

Sec. 4. K.S.A. 2012 Supp. 25-303 is hereby amended to read as follows: 25-303. (a) This section shall not apply to city and school elections, nor to election of other officers provided by law to be elected in April.

(b) All nominations other than party nominations shall be independent nominations. No person who has declared and retains a party affiliation in accordance with K.S.A. 25-3301, and amendments thereto, shall be eligible to accept an independent nomination for any office.

Independent nominations of candidates for any office to be filled by the voters of the state at large may be made by nomination petitions signed by not less than 5,000 qualified voters for each candidate and in the case of governor and lieutenant governor for each pair of such candidates.

(c) Independent nominations of candidates for offices to be filled by the voters of a county, district or other division less than a state may be made by nomination petitions signed by voters equal in number to not less than 4% of the current total of qualified voters of such county, district or other division as compiled by the office of the secretary of state in the case of state offices and as compiled in the office of the county election officer and certified to the secretary of state in accordance with K.S.A. 25-2311, and amendments thereto, in the case of local offices, and in no case to be signed by less than 25 nor more than 5,000 qualified voters of such county, district or division, for each candidate.

(d) Independent nominations of candidates for offices to be filled by the voters of a township may be made by nomination papers signed by not less than 5% of the current total of qualified voters of such township, computed as above provided, for each candidate, and in no case to be signed by less than 10 such voters of such township for each candidate.

(e) The signatures to such nomination petitions need not all be appended to one paper, but each registered voter signing an independent certificate of nomination shall add to the signature such petitioner's place of residence and post office address. All signers of each separate nomination petition shall reside in the same county and election district of the office sought. The affidavit of the candidate or a petition circulator ~~who is a resident of the state of Kansas and has the qualifications of an elector of the state of Kansas~~ shall be appended to each petition and shall contain,

at the end of each set of documents carried by each circulator *or candidate*, a verification, signed by the circulator *or candidate*, to the effect that such circulator *or candidate* personally witnessed the signing of the petition by each person whose name appears thereon.

(f) No such nomination paper shall contain the name of a candidate for governor without in the same such paper containing the name of a candidate for lieutenant governor, and if it does it shall be void.

(g) No person shall join in nominating more than one person for the same office, and if this is done, the name of such petitioner shall not be counted on any certificate.

Sec. 5. K.S.A. 2012 Supp. 25-3602 is hereby amended to read as follows: 25-3602. (a) Each petition shall consist of one or more documents pertaining to a single issue or proposition under one distinctive title. The documents shall be filed with the county election officer or other official, if another official is designated in the applicable statutes. The filing shall be made at one time all in one group. Later or successive filings of documents relating to the same issue or proposition shall be deemed to be separate petitions and not a part of any earlier or later filing.

(b) Unless otherwise specifically required, each petition shall: (1) State the question which petitioners seek to bring to an election in the form of a question as it should appear upon the ballot in accordance with the requirements of K.S.A. 25-620 and K.S.A. 25-3601, and amendments thereto;

(2) name the taxing subdivision or other political subdivision in which an election is sought to be held;

(3) contain the following recital above the spaces provided for signatures: "I have personally signed this petition. I am a registered elector of the state of Kansas and of \_\_\_\_\_

(here insert name of political or taxing subdivision)

and my residence address is correctly written after my name."

The recital shall be followed by blank spaces for the signature, residence address and date of signing for each person signing the petition.

When petitioners are required by law to possess qualifications in addition to being registered electors, the form of the petition shall be amended to contain a recital specifying the additional qualifications required and stating that the petitioners possess the qualifications; and

(4) contain ~~the following recital~~ *a recital in substance as follows*, at the end of each set of documents carried by each *petition* circulator *as defined in section 8, and amendments thereto*: "I am the circulator of this petition and ~~a resident of the state of Kansas and possess the qualifications of an elector of the state of Kansas. I have~~ *I am qualified to circulate this*

*petition and I personally witnessed the signing of the petition by each person whose name appears thereon.*

\_\_\_\_\_  
(Signature of circulator)

”

\_\_\_\_\_  
(Circulator’s residence address)

The recital of the circulator of each petition shall be verified upon oath or affirmation before a notarial officer in the manner prescribed by K.S.A. 53-501 et seq., and amendments thereto.

(c) Any person who has signed a petition who desires to withdraw such person’s name may do so by giving written notice to the county election officer or other designated official not later than the third day following the date upon which the petition is filed.

(d) Any petition shall be null and void unless submitted to the county election officer or other designated official within 180 days of the date of the first signature on the petition.

(e) Unless the governing body of the political or taxing subdivision in which the election is sought to be held authorizes a special election, all elections which are called as a result of the filing of a sufficient petition shall be held at the next succeeding primary or general election as defined by K.S.A. 25-2502, and amendments thereto, in which the political or taxing subdivision is participating.

(f) When a petition requires signatures equal in number to a percentage of the total number of registered voters, such percentage shall be based on the most recent number of registered voters as certified to the office of the secretary of state pursuant to subsection (g) of K.S.A. 25-2311, and amendments thereto.

Sec. 6. K.S.A. 2012 Supp. 25-4005 is hereby amended to read as follows: 25-4005. The nomination papers or petitions as mentioned in K.S.A. 25-4004, and amendments thereto, shall be in substantially the following form:

I, the undersigned, an elector of the county of \_\_\_\_\_, and state of Kansas, and a duly registered voter and a member of the \_\_\_\_\_ party, hereby nominate \_\_\_\_\_

\_\_\_\_\_  
(Here insert name and city)

and state of Kansas as a candidate for the office of governor, and running with such candidate \_\_\_\_\_

\_\_\_\_\_  
(Here insert name and city)

and state of Kansas as a candidate for the office of lieutenant governor to be voted for at the primary to be held on the first Tuesday in August in \_\_\_\_\_, as representing the principles of such party; and I further declare that I intend to support the candidates herein named and that I

have not signed and will not sign any petition or nomination paper for any other persons, for such offices at the next ensuing election.

(HEADING)

Name of Signers	Street Number or RR (as Registered)	Name of City	Date of Signing
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All nomination papers shall have substantially the foregoing form, written or printed at the top thereof. No signature shall be counted unless it is upon a sheet having such written or printed form at the top thereof.

Each signer of a nomination paper shall sign but one such paper for governor and lieutenant governor, and shall declare that such signer intends to support the candidates therein named, and shall add to the signer's signature the signer's residence, if in a city, by street and number (, if any); or, otherwise by address as shown on such signer's registration. No signature shall be counted unless the place of residence of the signer is clearly indicated and the date of signing given as herein required and if ditto marks are used to indicate address they shall be continuous and clearly made. Such sheets shall not be cut or pasted together.

All signers of each separate nomination paper shall reside in the same county. The affidavit of a petition circulator ~~who is a resident of the state of Kansas and has the qualifications of an elector of the state of Kansas as defined in section 8, and amendments thereto,~~ shall be appended to each such nomination paper, stating that to the best of such petition circulator's knowledge and belief, all the signers thereof are qualified electors of that county; that the petition circulator knows that they signed the same with full knowledge of the contents thereof; that their respective residences are correctly stated therein; that each signer signed the same on the date stated opposite such signer's name, and that the affiant intends to support the candidates therein named. Such affidavit shall be prima facie evidence of the facts therein stated.

Such nomination papers shall be signed by not less than 1% of the total vote of the party designated in the state. The basis of the percentage shall be the vote of the party for secretary of state at the last preceding general election of secretary of state; or, in case of a new party, the basis of a percentage shall be the vote cast for the successful candidate for secretary of state at the last preceding general election of secretary of state.

Sec. 7. K.S.A. 2012 Supp. 25-4310 is hereby amended to read as follows: 25-4310. The petitions may be circulated ~~only by a sponsor who is a resident of the state of Kansas and possesses the qualifications of an elector of the state of Kansas and~~ *by a petition circulator, as defined in section 8, and amendments thereto,* only in person throughout the state or election district of the state officer sought to be recalled. No copy of a petition shall be circulated in more than one county, and the county

election officer of the county in which each petition is circulated shall certify to the secretary of state the sufficiency of the signatures on the petition. Any registered elector of such election district or of the state, as the case may be, may subscribe to the petition by signing the elector's name and address as the same appears on the voter registration books. A person who has signed the petition may withdraw such person's name only by giving written notice to the secretary of state before the date the petition is filed. The necessary signatures on a petition shall be secured within 90 days from the date that the petitions prepared by the secretary of state pursuant to K.S.A. 25-4309, and amendments thereto, are delivered to the recall committee. The petition shall be signed only in ink. Illegible signatures unless accompanied by a legible printed name may be rejected by the secretary of state or by any county election officer assisting the secretary of state.

Sec. 8. K.S.A. 2012 Supp. 25-4320 is hereby amended to read as follows: 25-4320. (a) Each petition for recall of a local officer shall include: (1) The name and office of the local officer sought to be recalled; (2) the grounds for recall described in particular in not more than 200 words; (3) a statement that the petition signers are registered electors of the election district of the local officer sought to be recalled; (4) the names and addresses of three registered electors of the election district of the officer sought to be recalled who shall comprise the recall committee; (5) the statement of warning required in K.S.A. 25-4321, and amendments thereto; and (6) a statement that a list of all ~~sponsors~~ *petition circulators, as defined in section 8, and amendments thereto*, authorized to circulate recall petitions for such recall may be examined in the office of the county election officer where the petition is required to be filed. ~~Each sponsor shall be a resident of the state of Kansas and possess the qualifications of an elector of the state of Kansas.~~

(b) Each page of a petition for recall of a local officer shall be in substantially the following form:

I, the undersigned, hereby seek the recall of \_\_\_\_\_ from the office of \_\_\_\_\_, on the ground(s) that \_\_\_\_\_, (state specific grounds) and declare that I am a registered elector of \_\_\_\_\_ County, Kansas, and of the election district of the officer named above.

Name of Signer	Street Number or RR (as Registered)	Name of City	Date of Signing
_____	_____	_____	_____
_____	_____	_____	_____

NOTE:

1. It is a class B misdemeanor to sign a name other than your own name to this petition, to knowingly sign more than once for the recall

- of the same officer at the same election or to sign this petition knowing you are not a registered elector.
2. The following comprise the recall committee:  
(names and resident addresses)
  3. A list of all ~~sponsors~~ *petition circulators, as defined in section 8, and amendments thereto*, authorized to circulate petitions for this recall may be examined in the office of the \_\_\_\_\_ County election officer.

(c) A county election officer shall provide a sample of the form prescribed by subsection (b) upon request by any person.

(d) The affidavit required by K.S.A. 25-4325, and amendments thereto, shall be appended to each petition for recall of a local officer.

New Sec. 9. (a) For purposes of this act, “petition circulator” shall mean a person who is:

- (1) A United States citizen;
- (2) at least 18 years of age; and
- (3) has not been convicted of a felony or if convicted of a felony under the law of any state or of the United States, has been pardoned or restored to such person’s civil rights.

(b) All petition circulators, whether residents or nonresidents of the state of Kansas, are required to agree to submit to the jurisdiction of the state, including its agencies, political subdivisions and election officials, for purposes of subpoena enforcement regarding the integrity and reliability of the petition process.

Sec. 10. K.S.A. 2012 Supp. 25-205, 25-302a, 25-303, 25-3602, 25-4005, 25-4310 and 25-4320 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 7, 2014.

Published in the *Kansas Register* May 15, 2014.

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## CHAPTER 99

### HOUSE BILL No. 2433

AN ACT concerning the Kansas uniform securities act; relating to criminal penalties; investor education and protection; amending K.S.A. 2013 Supp. 17-12a508 and 17-12a601 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 17-12a508 is hereby amended to read as follows: 17-12a508. (a) *Criminal penalties*. (1) Except as provided in subsections (a)(2) through (a)(4), a conviction for an intentional violation

of the Kansas uniform securities act, or a rule adopted or order issued under this act, except K.S.A. 17-12a504, and amendments thereto, or the notice filing requirements of K.S.A. 17-12a302 or 17-12a405, and amendments thereto, is a severity level 7, nonperson felony. An individual convicted of violating a rule or order under this act may be fined, but may not be imprisoned, if the individual did not have knowledge of the rule or order.

(2) A conviction for an intentional violation of K.S.A. 17-12a501 or 17-12a502, and amendments thereto, if the violation resulted in a loss of an amount of:

(A) \$1,000,000 or more is a severity level 2, nonperson felony;

(B) at least \$250,000 but less than \$1,000,000 is a severity level 3, nonperson felony;

(C) at least \$100,000 but less than \$250,000 is a severity level 4, nonperson felony;

(D) at least \$25,000 but less than \$100,000 is a severity level 5, nonperson felony; or

(E) less than \$25,000 is a severity level 6, nonperson felony.

(3) A conviction for an intentional violation of K.S.A. 17-12a301, 17-12a401(a), 17-12a402(a), 17-12a403(a) or 17-12a404(a), and amendments thereto, is:

(A) A severity level 5, nonperson felony if the violation resulted in a loss of \$100,000 or more;

(B) a severity level 6, nonperson felony if the violation resulted in a loss of at least \$25,000 but less than \$100,000; or

(C) a severity level 7, nonperson felony if the violation resulted in a loss of less than \$25,000.

(4) A conviction for an intentional violation of:

(A) K.S.A. 17-12a404(e) or 17-12a505, and amendments thereto, or an order to cease and desist issued by the administrator pursuant to K.S.A. 17-12a412(c) or 17-12a604(a), and amendments thereto, is a severity level 5, nonperson felony.

(B) K.S.A. 17-12a401(c), 17-12a403(c) or 17-12a506, and amendments thereto, is a severity level 6, nonperson felony.

(C) K.S.A. 17-12a402(d) or 17-12a403(d), and amendments thereto, is a severity level 7, nonperson felony.

(5) Any violation of K.S.A. 17-12a301, 17-12a401(a), 17-12a402(a), 17-12a403(a), 17-12a404(a), 17-12a501 or 17-12a502, and amendments thereto, resulting in a loss of \$25,000 or more shall be presumed imprisonment.

(6) *A conviction for an intentional violation of the Kansas uniform securities act, K.S.A. 17-12a101 et seq., and amendments thereto, committed against an elder person, as defined in K.S.A. 50-676, and amendments thereto, shall be ranked on the nondrug scale at one severity level above the appropriate level for the underlying or completed crime, if the*

*trier of fact finds that the victim was an elder person at the time of the crime. It shall not be a defense under this paragraph that the defendant did not know the age of the victim or reasonably believed that the victim was not an elder person.*

(b) *Statute of limitations.* Except as provided by subsection (e) of K.S.A. 2013 Supp. 21-5107, and amendments thereto, no prosecution for any crime under this act may be commenced more than 10 years after the alleged violation if the victim is the Kansas public employees retirement system and no prosecution for any other crime under this act may be commenced more than five years after the alleged violation. A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution, except that no prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

(c) *Criminal reference.* The administrator may refer such evidence as may be available concerning violations of this act or of any rules and regulations or order hereunder to the attorney general or the proper county or district attorney, who may in the prosecutor's discretion, with or without such a reference, institute the appropriate criminal proceedings under this act. Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the administrator prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the administrator, such employee shall be appointed a special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys and such other powers and duties as are lawfully delegated to such special prosecutor by the attorney general or the county attorney or district attorney. If an attorney employed by the administrator acts as a special prosecutor, the administrator may pay extradition and witness expenses associated with the case.

(d) *No limitation on other criminal enforcement.* This act does not limit the power of this state to punish a person for conduct that constitutes a crime under other laws of this state.

Sec. 2. K.S.A. 2013 Supp. 17-12a601 is hereby amended to read as follows: 17-12a601. (a) *Administration.* (1) This act shall be administered by the securities commissioner of Kansas.

(2) All fees herein provided for shall be collected by the administrator. All salaries and expenses necessarily incurred in the administration of this act shall be paid from the securities act fee fund.

(3) The administrator shall remit all moneys received from all fees,

charges, deposits or penalties which have been collected under this act or other laws of this state regulating the issuance, sale or disposal of securities or regulating dealers in this state or under the uniform land sales practices act, to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. In accordance with K.S.A. 75-3170a, and amendments thereto, 10% of each such deposit shall be credited to the state general fund and, except as provided in subsection (d), the balance shall be credited to the securities act fee fund.

(4) On the last day of each fiscal year, the director of accounts and reports shall transfer from the securities act fee fund to the state general fund any remaining unencumbered amount in the securities act fee fund exceeding \$50,000 so that the beginning unencumbered balance in the securities act fee fund on the first day of each fiscal year is \$50,000. All expenditures from the securities act fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by a person or persons designated by the administrator.

(5) All amounts transferred from the securities act fee fund to the state general fund under paragraph (4) are to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.

(b) *Prohibited conduct.* (1) It is unlawful for the administrator or an officer, employee, or designee of the administrator to use for personal benefit or the benefit of others records or other information obtained by or filed with the administrator that are not public under K.S.A. 17-12a607(b), and amendments thereto. This act does not authorize the administrator or an officer, employee, or designee of the administrator to disclose the record or information, except in accordance with K.S.A. 17-12a602, 17-12a607(c), or 17-12a608, and amendments thereto.

(2) Neither the administrator nor any employee of the administrator shall be interested as an officer, director, or stockholder in securing any authorization to sell securities under the provisions of this act.

(c) *No privilege or exemption created or diminished.* This act does not create or diminish a privilege or exemption that exists at common law, by statute or rule, or otherwise.

(d) *Investor education and protection.* (1) The administrator may develop and implement investor education *and protection* initiatives to inform the public about investing in securities, ~~with~~ *and protect the public from violations of the Kansas uniform securities act, K.S.A. 17-12a101 et seq., and amendments thereto. Such initiatives shall have a particular emphasis on the prevention-and, detection, enforcement and prosecution*

of securities fraud. In developing and implementing these initiatives, the administrator may collaborate with public and nonprofit organizations with an interest in investor education *or protection*. The administrator may accept a grant or donation from a person that is not affiliated with the securities industry or from a nonprofit organization, regardless of whether the organization is affiliated with the securities industry, to develop and implement investor education *and protection* initiatives. This subsection does not authorize the administrator to require participation or monetary contributions of a registrant in an investor education program.

(2) There is hereby established in the state treasury the investor education *and protection* fund. Such fund shall be administered by the administrator for the purposes described in subsection (d)(1) and for the education of registrants, including official hospitality. Moneys collected as civil penalties under this act shall be credited to the investor education *and protection* fund. The administrator may also receive payments designated to be credited to the investor education *and protection* fund as a condition in settlements of cases arising out of investigations or examinations. All expenditures from the investor education *and protection* fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by a person or persons designated by the administrator. ~~Two years after the effective date of this act, the administrator shall conduct a review and submit a report to the governor and the legislature concerning the expenditures from the investor education fund and the results achieved from the investor education program.~~

Sec. 3. K.S.A. 2013 Supp. 17-12a508 and 17-12a601 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 7, 2014.

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## CHAPTER 100

HOUSE BILL No. 2480

AN ACT repealing K.S.A. 66-1,197 and 66-2013; concerning the review of TeleKansas I.

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

Section 1. K.S.A. 66-1,197 and 66-2013 are hereby repealed.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 7, 2014.

Published in the *Kansas Register* May 15, 2014.

## CHAPTER 101

HOUSE BILL No. 2537

AN ACT concerning insurance; relating to disclosure statements contained in policy documents and explanatory materials printed in any language other than English; relating to the confidentiality of certain documents; relating to the continuation of health insurance for certain emergency personnel; relating to the continuation of health insurance for spouse and children of employees of the department of corrections; relating to the purchase of certain insurance by the state fair board; amending K.S.A. 2-224 and K.S.A. 2013 Supp. 40-216, 40-222 , 40-2140, 75-4105 and 75-4109 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 40-216 is hereby amended to read as follows: 40-216. (a) (1) No insurance company shall hereafter transact business in this state until certified copies of its charter and amendments thereto shall have been filed with and approved by the commissioner of insurance. A copy of the bylaws and amendments thereto of insurance companies organized under the laws of this state shall also be filed with and approved by the commissioner of insurance. The commissioner may also require the filing of such other documents and papers as are necessary to determine compliance with the laws of this state.

(2) (A) Except as provided in subparagraph (B), each contract of insurance or indemnity issued or delivered in this state shall be effective on filing, or any subsequent date selected by the insurer, unless the commissioner disapproves such contract of insurance or indemnity within 30 days after filing because the contract of insurance or indemnity does not comply with Kansas law.

(B) The following contracts of insurance or indemnity shall not be subject to the provisions of subsection (A):

(i) Contracts pertaining to large risks as defined in subsection (i) of

K.S.A. 40-955, and amendments thereto, which are exempt from the filing requirements of this section;

(ii) personal lines contracts filed in accordance with paragraph (3) of this section;

(iii) any form filing for the basic coverage required by K.S.A. 40-3401 et seq., and amendments thereto; and

(iv) form filing for workers compensation.

No form filing listed in clauses (iii) and (iv) of this subparagraph shall be used in this state by any insurer until such form filing has been approved by the commissioner.

(3) Each personal lines contract of insurance or indemnity issued or delivered in this state shall be on file for a period of 30 days before becoming effective unless the commissioner disapproves such personal lines contract of insurance or indemnity within 30 days after filing because the contract of insurance or indemnity does not comply with Kansas law. For the purposes of this paragraph, the term “personal lines” shall mean insurance for noncommercial automobile, homeowners, dwelling, fire and renters insurance policies as defined by the commissioner by rules and regulations.

(4) Under such rules and regulations as the commissioner of insurance shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing forms of contracts of insurance or indemnity, which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make an examination to ascertain whether any forms affected by such order meet the standards of this code.

(5) The failure of any insurance company to comply with this section shall not constitute a defense to any action brought on its contracts. An insurer may satisfy its obligation to file its contracts of insurance or indemnity either individually or by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer.

(b) The commissioner of insurance shall allow any insurance company authorized to transact business in this state to deliver to any person in this state any contract of insurance or indemnity, including any explanatory materials, written in any language other than the English language under the following conditions:

(1) The insured or applicant for insurance who is given a copy of the same contract of insurance or indemnity or explanatory materials written in the English language;

(2) the English language version of the contract for insurance or indemnity or explanatory materials delivered shall be the controlling version; and

(3) any contract of insurance or indemnity or explanatory materials

written in any language other than English shall contain a disclosure statement ~~in 10 point boldface type~~, printed in both the English language and the other language used, stating the English version of the contract of insurance or indemnity is the official or controlling version and that the version is written in any language other than English is furnished for informational purposes only.

(c) All contracts of insurance or indemnity that are required to be filed with the commissioner of insurance shall be accompanied by any version of such contract of insurance or indemnity written in any language other than the English language.

(d) Any insurance company or insurer, including any agent or employee thereof, who knowingly misrepresents the content of a contract of insurance or indemnity or explanatory materials written in a language other than the English language shall be deemed to have violated the unfair trade practice law.

(e) For the purposes of this section, the term “contract of insurance or indemnity” shall include any rider, endorsement or application pertaining to such contract of insurance or indemnity.

(f) (1) If at any time after a filing becomes effective, the commissioner finds that such filing does not comply with this act, after the commissioner shall send written notice to every insurer and rating organization making such filing that a hearing concerning such filing will be held in not less than 10 days.

(2) After the hearing, the commissioner shall issue an order stating:

(A) The reasons why such filing failed to comply with the act; and

(B) the date, within a reasonable time after the date the order is issued, upon which such filing shall no longer be effective.

(3) A copy of the commissioner’s order shall be sent to every insurer and rating organization that made such filing.

(4) No order issued pursuant to this subsection shall affect any contract or policy made or issued under such filing prior to the date specified upon which such filing shall no longer be effective.

Sec. 2. K.S.A. 2013 Supp. 40-222 is hereby amended to read as follows: 40-222. (a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner’s discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.

(b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of in-

dependent certified public accountants and other criteria as set forth in the examiner's handbook adopted by the national association of insurance commissioners and in effect when the commissioner exercises discretion under this subsection.

(c) For the purpose of such examination, the commissioner of insurance or the persons appointed by the commissioner, for the purpose of making such examination shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner or the persons appointed by the commissioner are empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.

(d) The commissioner may also examine or investigate any person, or the business of any person, in so far as such examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the company, but such examination or investigation shall not infringe upon or extend to any communications or information accorded privileged or confidential status under any other laws of this state.

(e) In lieu of examining the financial condition of a foreign or alien insurance company, the commissioner of insurance may accept the report of the examination made by or upon the authority of the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, such reports as they relate to financial condition may only be accepted if:

(1) The insurance department conducting the examination was at the time of the examination accredited under the national association of insurance commissioners' financial regulation standards and accreditation program; or

(2) the examination is performed under the supervision of an accredited insurance department, or with the participation of one or more examiners who are employed by such an accredited insurance department and who after a review of the examination work papers and report state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

(f) Upon determining that an examination should be conducted, the commissioner or the commissioner's designee shall appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. In conducting an examination of financial condition, the examiner shall observe those guidelines and procedures set forth in the examiners' handbook adopted by the national association of insurance commissioners. The commissioner may also employ such other guidelines or procedures as the commissioner may deem appropriate.

(g) The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or re-

fusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(h) When making an examination under this act, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the company which is the subject of the examination.

(i) Nothing contained in this act shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state.

(j) Nothing contained in this act shall be construed to limit the commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report in the furtherance of any legal or regulatory action which the commissioner may, in the commissioner's sole discretion, deem appropriate.

(k) (1) No later than 30 days following completion of the examination or at such earlier time as the commissioner shall prescribe, the examiner in charge shall file with the department a verified written report of examination under oath. No later than 30 days following receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which shall afford such company examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(2) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiners workpapers and enter an order:

(A) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violations; or

(B) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refiling pursuant to subsection (k); or

(C) call and conduct a fact-finding hearing in accordance with K.S.A. 40-281, and amendments thereto, for purposes of obtaining additional documentation, data, information and testimony.

(3) All orders entered as a result of revelations contained in the ex-

amination report shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers and any written submissions or rebuttals. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(4) Upon the adoption of the examination report, the commissioner shall hold the content of the examination report as private and confidential information for a period of 30 days except to the extent provided in paragraph (5). Thereafter, the commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

(5) (A) Except as provided in paragraph (B), nothing contained in this act shall prevent or be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, at any time to:

- (i) The insurance department of this or any other state or country;
- (ii) law enforcement officials of this or any other state or agency of the federal government or any other country; or
- (iii) officials of any agency of another country.

(B) The commissioner shall not share any information listed in paragraph (A) unless the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this act.

(6) In the event the commissioner determines that regulatory action is appropriate as a result of any examination, the commissioner may initiate any proceedings or actions as provided by law.

(7) All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this act *including analysis by the commissioner pertaining to either the financial condition or the market regulation of a company* must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent otherwise specifically provided in K.S.A. 45-215 et seq., and amendments thereto. Access may also be granted to the national association of insurance commissioners *and its affiliates*. Such parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

(8) Whenever it appears to the commissioner of insurance from such examination or other satisfactory evidence that the solvency of any such insurance company is impaired, or that it is doing business in violation of any of the laws of this state, or that its affairs are in an unsound condition

so as to endanger its policyholders, the commissioner of insurance shall give the company a notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act. If the hearing confirms the report of the examination, the commissioner shall suspend the certificate of authority of such company until its solvency shall have been fully restored and the laws of the state fully complied with. The commissioner may, if there is an unreasonable delay in restoring the solvency of such company and in complying with the law, revoke the certificate of authority of such company to do business in this state. Upon revoking any such certificate the commissioner shall commence an action to dissolve such company or to enjoin the same from doing or transacting business in this state.

New Sec. 3. (a) (1) Except as provided in paragraph (2), whenever a municipality provides for the payment of premiums for any health benefit plan for its emergency personnel, it shall pay premiums for the continuation of coverage under COBRA for the surviving spouse and eligible dependent children under the age of 26 years of any emergency personnel who dies in the line of duty. Premiums for continuation of coverage under COBRA shall be paid for 18 months.

(2) A municipality may not be required to pay the premiums described in paragraph (1) for a surviving spouse:

(A) On or after the end of the 18<sup>th</sup> calendar month after the date of death of the deceased emergency personnel;

(B) upon the remarriage of the deceased emergency personnel's surviving spouse; or

(C) upon the deceased emergency personnel's surviving spouse reaching the age of 65.

(b) For the purposes of this section:

(1) "Emergency personnel" means an attendant as such term is defined in K.S.A. 65-6112, and amendments thereto.

(2) "Health benefit plan" shall have the meaning ascribed to it in K.S.A. 40-4602, and amendments thereto.

(3) "Municipality" means a city or county.

Sec. 4. K.S.A. 2013 Supp. 40-2140 is hereby amended to read as follows: 40-2140. (a) (1) Except as provided in paragraph (2), whenever a state agency or municipality provides for the payment of premiums for any health benefit plan for law enforcement officers employed by such state agency or such municipality, the state agency or municipality shall pay premiums for the continuation of coverage under COBRA for the surviving spouse and eligible dependent children under the age of 26 years of a law enforcement officer who dies in the line of duty. Premiums for continuation of coverage under COBRA shall be paid for 18 months.

(2) Neither the state agency nor the municipality may be required to pay the premiums described in paragraph (1) for a surviving spouse:

(A) On or after the end of the 18<sup>th</sup> calendar month after the date of death of the deceased law enforcement officer;

(B) upon the remarriage of the deceased law enforcement officer's surviving spouse; or

(C) upon the deceased law enforcement officer's surviving spouse reaching the age of 65.

(b) For the purposes of this section:

(1) "Health benefit plan" shall have the meaning ascribed to such term in K.S.A. 40-4602, and amendments thereto.

(2) "Law enforcement officer" means an employee employed by:

(A) A law enforcement agency ~~and~~

~~(A)~~ whose principal duties are engagement in the enforcement of law and maintenance of order within this state and its political subdivisions; and

~~(B)~~ who is certified pursuant to the provisions of the Kansas law enforcement training act, K.S.A. 74-5601 et seq., and amendments thereto; or

(B) *the Kansas department of corrections.*

(3) "Municipality" means *a city, county or township.*

(4) "State agency" shall have the meaning ascribed to such term in K.S.A. 75-3701, and amendments thereto.

Sec. 5. K.S.A. 2-224 is hereby amended to read as follows: 2-224. (a) The state fair board is hereby authorized to purchase safe burglary and messenger robbery insurance coverage in amounts deemed appropriate by such board for the period of the annual Kansas state fair and during the remainder of the year. Such board is also authorized to purchase insurance coverage for any rented or borrowed motorized vehicles used during the state fair indemnifying the board against loss or damage to such vehicles and against liability for the operation of such vehicles. ~~The insurance shall be acquired through the committee on surety bonds and insurance as provided by law.~~

(b) *The state fair board is hereby authorized to purchase event cancellation and rain insurance coverage in amounts deemed appropriate by such board for the period of the annual Kansas state fair and during the remainder of the year.*

(c) *Any insurance purchased pursuant to this section shall not be required to be acquired through the committee on surety bonds and insurance as required by K.S.A. 75-4101 et seq., and amendments thereto.*

Sec. 6. K.S.A. 2013 Supp. 75-4105 is hereby amended to read as follows: 75-4105. Except as provided in K.S.A. 2-224 and K.S.A. 2013 Supp. 75-4125, and amendments thereto, all surety bonds and insurance contracts purchased pursuant to this act shall be purchased by the committee in the manner prescribed for the purchase of supplies, materials, equipment or contractual services under K.S.A. 75-3738 to 75-3744, in-

clusive, and amendments thereto. The director of accounts and reports shall not pay any premium or rate on any surety bond or insurance contract until the purchase of such surety bond or contract shall have been approved by the secretary of the committee. Surety bonds or insurance contracts having a premium or rate in excess of \$500 purchased hereunder shall be purchased on sealed bids as provided by law for the purchase of other materials, equipment or contractual services. Where more than one state agency is covered by any bond or insurance contract, the committee shall prorate the cost of premiums or rates on any and all such bonds or contracts, except as provided in K.S.A. 75-4114, and amendments thereto, purchased as charges upon the funds of the state agency wherein any covered state officers or employees are employed or covered property is located or controlled. Such prorated charges shall constitute a lawful charge by the committee upon the funds available to any such state agency and shall be paid by each such state agency to the committee, or to the surety or insurance carrier if the committee requires it, in the manner provided by law for the payment of other obligations of such state agency.

Sec. 7. K.S.A. 2013 Supp. 75-4109 is hereby amended to read as follows: 75-4109. (a) *Subject to the provisions of K.S.A. 2-224, and amendments thereto*, the committee, at least once every three years, shall approve the property and casualty insurance coverages that shall be purchased by each state agency.

(b) *Subject to the provisions of K.S.A. 2-224, and amendments thereto*, the committee shall require that each state agency purchase the insurance coverages prescribed by K.S.A. 74-4703, 74-4705, 74-4707, 75-712e, 75-2728, 76-218, 76-391, 76-394, 76-747 and 76-491, and amendments to these sections thereto, and shall prescribe the terms, conditions and amounts of such coverage giving due regard to the operations and requirements of the agencies involved.

(c) *Subject to the provisions of K.S.A. 2-224, and amendments thereto*, the committee shall, in addition to the coverages specified in subsection (b), designate the insurance coverages to be purchased by each state agency that are deemed by the committee to be necessary to protect the state for property of others that may be in the possession or control of such state agencies.

(d) Such coverages as are specified in subsections (b) and (c) may also include coverages on property of the state that are deemed by the committee to be incidental to the basic coverages herein required, and the committee shall prescribe the terms, conditions and amounts of all insurance coverages purchased pursuant to this section. Property of the state board of regents of any university or college which is referred to in subsection (b) may be self-insured as provided under this act.

(e) No property insurance coverage may be purchased by the com-

mittee, except as provided herein or by K.S.A. 2013 Supp. 75-4125, and amendments thereto, or specifically required by other Kansas statutes or appropriations.

Sec. 8. K.S.A. 2-224 and K.S.A. 2013 Supp. 40-216, 40-222, 40-2140, 75-4105 and 75-4109 are hereby repealed.

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

Approved May 12, 2014.

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## CHAPTER 102

Senate Substitute for HOUSE BILL No. 2448

AN ACT concerning crimes, punishment and criminal procedure; relating to DNA evidence; statute of limitations; interference with judicial process; sentencing; probation and post-release supervision; expungement; trials; conduct of jury after case is submitted; amending K.S.A. 22-3420 and K.S.A. 2013 Supp. 21-2511, 21-5107, 21-5905, 21-6328, 21-6329, 21-6604, 21-6608, 21-6614 and 22-3716 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 21-6614d.

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

Section 1. K.S.A. 2013 Supp. 21-2511 is hereby amended to read as follows: 21-2511. (a) *On and after May 2, 1991, any person convicted as an required to register as an offender pursuant to the Kansas offender registration act, any adult arrested or charged or adjudicated as a juvenile offender because of placed in custody for or charged with the commission of any felony, a violation of the following offenses, regardless of the sentence imposed, shall be required to submit biological samples authorized by and given to the Kansas bureau of investigation in accordance with the provisions of this section:*

- (1) *Any felony;*
- (2) *subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;*
- (3) *a violation of K.S.A. 21-3508, prior to its repeal, or K.S.A. 2013 Supp. 21-5513, and amendments thereto, when committed in the presence of a person 16 or more years of age;*
- (4) *a violation of K.S.A. 21-4310, prior to its repeal, or K.S.A. 2013 Supp. 21-6412, and amendments thereto;*
- (5) *a violation of K.S.A. 21-3424, prior to its repeal, or K.S.A. 2013 Supp. 21-5411, and amendments thereto, when the victim is less than 18 years of age;*
- (6) *a violation of K.S.A. 21-3507, prior to its repeal, or K.S.A. 2013*

*Supp. 21-5511*, and amendments thereto, when one of the parties involved is less than 18 years of age;

~~(7) a violation of subsection (b)(1) of K.S.A. 21-3513, and amendments thereto prior to its repeal, when one of the parties involved is less than 18 years of age;~~

~~(8) a violation of K.S.A. 21-3515, and amendments thereto prior to its repeal, when one of the parties involved is less than 18 years of age, or K.S.A. 2013 Supp. 21-6421, and amendments thereto, when the offender is less than 18 years of age; or~~

~~(9) a violation of K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5505, and amendments thereto; or~~

~~(10) including an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2013 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such offenses provided in this subsection regardless of the sentence imposed, shall be required to submit specimens of blood or an oral or other biological sample authorized by the Kansas bureau of investigation to the Kansas bureau of investigation in accordance with the provisions of this act, if such person is:~~

~~(1) Convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act;~~

~~(2) ordered institutionalized as a result of being convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act; or~~

~~(3) convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in this subsection before the effective date of this act and is presently confined as a result of such conviction or adjudication in any state correctional facility or county jail or is presently serving a sentence under K.S.A. 21-4603, 21-4603d, 22-3717 or K.S.A. 2013 Supp. 38-2361, and amendments thereto.~~

(b) Notwithstanding any other provision of law, the Kansas bureau of investigation is authorized to obtain fingerprints and other identifiers for all persons, ~~whether juveniles or adults, covered by~~ *required to submit a sample under the provisions of this act section.*

(c) ~~Any person required by paragraphs (a)(1) and (a)(2) to provide such specimen or sample shall be ordered by the court to have such specimen or sample collected within 10 days after sentencing or adjudication:~~

~~(1) If placed directly on probation, that person must provide such specimen or sample, at a collection site designated by the Kansas bureau of investigation. Collection of specimens shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation. Failure to cooperate with the collection of the specimens and any deliberate act by that person intended to impede,~~

delay or stop the collection of the specimens shall be punishable as contempt of court and constitute grounds to revoke probation;

~~(2) if sentenced to the secretary of corrections, such specimen or sample will be obtained as soon as practical upon arrival at the correctional facility; or~~

~~(3) if a juvenile offender is placed in the custody of the commissioner of juvenile justice, in a youth residential facility or in a juvenile correctional facility, such specimen or sample will be obtained as soon as practical upon arrival.~~

*Any person required to submit a sample pursuant to subsection (a) shall be required to submit such sample at the same time such person is fingerprinted pursuant to the booking procedure, or as soon as practicable.*

~~(d) Any person required by paragraph (a)(3) convicted as an adult and who was incarcerated on May 2, 1991, for a crime committed prior to May 2, 1991, shall be required to provide such specimen or submit a sample shall be required to provide such samples prior to final discharge or conditional release at a collection site designated by the Kansas bureau of investigation. Collection of specimens-samples shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation.~~

~~(e)(1) On and after January 1, 2007 through June 30, 2008, any adult arrested or charged or juvenile placed in custody for or charged with the commission or attempted commission of any person felony or drug severity level 1 or 2 felony shall be required to submit such specimen or sample at the same time such person is fingerprinted pursuant to the booking procedure.~~

~~(2) On and after July 1, 2008, except as provided further, any adult arrested or charged or juvenile placed in custody for or charged with the commission or attempted commission of any felony; a violation of subsection (a)(1) of K.S.A. 21-3505, a violation of K.S.A. 21-3508, a violation of K.S.A. 21-4310, a violation of K.S.A. 21-3424, and amendments thereto, when the victim is less than 18 years of age; a violation of K.S.A. 21-3507, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of subsection (b)(1) of K.S.A. 21-3513, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of K.S.A. 21-3515, and amendments thereto, when one of the parties involved is less than 18 years of age; or a violation of K.S.A. 21-3517, and amendments thereto; shall be required to submit such specimen or sample at the same time such person is fingerprinted pursuant to the booking procedure.~~

~~(3)(e) Prior to taking such samples, the arresting, charging or custodial law enforcement or juvenile justice agency shall search the Kansas criminal history files through the Kansas criminal justice information system to determine if such person's sample is currently on file with the Kansas bureau of investigation. In the event that it cannot reasonably be~~

established that a DNA sample for such person is on file at the Kansas bureau of investigation, the arresting, charging or custodial law enforcement or juvenile justice agency shall cause a sample to be collected. If such person's sample is on file with the Kansas bureau of investigation, the law enforcement or juvenile justice agency ~~is~~ shall not be required to take the sample.

~~(4)~~-(f) (1) If a court later determines that there was not probable cause for the arrest, charge or placement in custody or the charges are otherwise dismissed, and the case is not appealed, the Kansas bureau of investigation, upon petition by such person, shall expunge both the DNA sample and the profile record of such person.

~~(5)~~-(2) If a conviction against a person, who is required to submit such specimen or sample, is overturned, expunged or a verdict of acquittal with regard to such person is returned, the Kansas bureau of investigation shall, upon petition by such person, shall expunge both the DNA sample and the profile record of such person.

~~(f)~~ All persons required to register as offenders pursuant to K.S.A. 22-4901 et seq., and amendments thereto, shall be required to submit specimens of blood or an oral or other biological sample authorized by the Kansas bureau of investigation to the Kansas bureau of investigation in accordance with the provisions of this act.

(g) The Kansas bureau of investigation shall provide all ~~specimen vials, mailing tubes, labels kits, supplies~~ and instructions necessary for the collection of blood, oral or other biological samples. The collection of samples shall be performed in a medically approved manner. No person authorized by this section to withdraw blood, and no person assisting in the collection of these samples pursuant to the provisions of this section shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices. The withdrawal of blood for purposes of this act may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) any qualified medical technician including, but not limited to, an emergency medical technician-intermediate, mobile intensive care technician, advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A. 65-6112, and amendments thereto, or a phlebotomist. The Such samples shall thereafter be forwarded to the Kansas bureau of investigation; and the bureau shall analyze the such samples to the extent allowed by funding available for this purpose.

(h) (1) The DNA (deoxyribonucleic acid) records and DNA Samples and profile records shall be maintained by the Kansas bureau of investigation. The Kansas bureau of investigation shall establish, implement and maintain a statewide automated DNA databank and DNA database capable of, but not limited to, searching, matching and storing DNA profile

records. The DNA database ~~as~~ established by this ~~act~~-section shall be compatible with the procedures specified by the federal bureau of investigation's combined DNA index system ~~(CODIS)~~. The Kansas bureau of investigation shall participate in the ~~CODIS~~ federal bureau of investigation's combined DNA index system program by sharing data and utilizing compatible test procedures, laboratory equipment, supplies and computer software.

~~(i)-(2)~~ The DNA-Profile records obtained pursuant to this ~~act~~-section shall be confidential and shall be released only to authorized criminal justice agencies. ~~The DNA~~ Such records shall be used only for law enforcement identification purposes or to assist in the recovery or identification of human remains from disasters or for other humanitarian identification purposes, including, *but not limited to*, identification of missing persons.

~~(j)-(1)-(3)~~ The Kansas bureau of investigation shall be the state central repository for all ~~DNA~~ profile records and ~~DNA~~ samples obtained pursuant to this ~~act~~-section. *No profile records shall be accepted for admission or comparison unless obtained in substantial compliance with the provisions of this section by an accredited forensic laboratory meeting the national DNA index system guidelines established by the federal bureau of investigation.*

(i) (1) The Kansas bureau of investigation shall promulgate rules and regulations for:

(A) The form and manner of the collection and maintenance of ~~DNA~~ samples;

(B) a procedure which allows ~~the defendant~~ *defendants* to petition to expunge and destroy the ~~DNA~~ samples and profile record in the event of a dismissal of charges, expungement or acquittal at trial, *expungement or overturned conviction*; and

(C) *any* other procedures for the operation of this ~~act~~-section.

(2) ~~These~~ Such rules and regulations also shall require compliance with national quality assurance standards to ensure that ~~the DNA~~ profile records satisfy standards of acceptance of such records into the national DNA ~~identification~~ index system.

(3) The provisions of the Kansas administrative procedure act shall apply to all actions taken ~~under the~~ *pursuant to such* rules and regulations ~~so promulgated~~.

~~(k)-(j)~~ The Kansas bureau of investigation is authorized to contract with third parties for the purposes of implementing this section. Any other party contracting to carry out the functions of this section shall be subject to the same restrictions and requirements of this section, insofar as applicable, as the bureau, as well as any additional restrictions *or requirements* imposed by the bureau.

~~(l)-(k)~~ In the event that a person's ~~DNA~~ sample is lost, *was not prop-*

*erly obtained pursuant to the provisions of this section or is not adequate for any reason, the person shall provide another sample for analysis.*

*(l) A sample, or any evidence based upon or derived from such sample, collected by a law enforcement agency or a juvenile justice agency in substantial compliance with the provisions of this section, shall not be excluded as evidence in any criminal proceeding on the basis that such sample was not validly obtained.*

*(m) Any person who is subject to the requirements of this section, and who, after receiving notification of the requirement to provide a ~~DNA specimen~~ sample, knowingly refuses to provide such ~~DNA specimen~~ sample, shall be guilty of a class A nonperson misdemeanor.*

*(n) (1) Any person who, by virtue of employment or official position, has possession of, or access to, samples maintained by the Kansas bureau of investigation or profile records maintained by the Kansas bureau of investigation shall not disseminate such samples or records except in strict accordance with applicable laws.*

*(2) A criminal justice agency shall not request profile records from the Kansas bureau of investigation or another criminal justice agency unless such agency has a legitimate need for such records in accordance with subsection (h)(2).*

*(3) In addition to any other remedy or penalty authorized by law, any person who knowingly violates or causes a violation of this subsection shall be guilty of a class A nonperson misdemeanor. If such person is employed or licensed by a state or local government agency, a conviction for violation of this subsection shall constitute good cause to terminate such person's employment or to revoke or suspend such person's license.*

*(o) Any person who, without authorization, knowingly obtains samples maintained by the Kansas bureau of investigation or profile records maintained by the Kansas bureau of investigation shall be guilty of a class A nonperson misdemeanor.*

*(p) As used in this section:*

*(1) "DNA" means deoxyribonucleic acid;*

*(2) "profile record" means the identifying information of the laboratory and laboratory personnel performing the DNA analysis, the sample identification number and data related to the reliability and maintainability of a DNA profile;*

*(3) "DNA profile" means a set of DNA identification characteristics that permit the DNA of one person to be distinguishable from the DNA of another person; and*

*(4) "biological sample" means a body tissue, fluid or other bodily sample, usually a blood or buccal sample, of an individual on which DNA analysis can be carried out.*

Sec. 2. K.S.A. 2013 Supp. 21-5107 is hereby amended to read as follows: 21-5107. (a) A prosecution for rape, aggravated criminal sodomy,

murder, terrorism or illegal use of weapons of mass destruction may be commenced at any time.

(b) Except as provided in subsection (e), a prosecution for any crime shall be commenced within 10 years after its commission if the victim is the Kansas public employees retirement system.

(c) Except as provided in subsection (e), a prosecution for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto:

(1) When the victim is 18 years of age or older shall be commenced within 10 years or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later; or

(2) when the victim is under 18 years of age shall be commenced within 10 years of the date the victim turns 18 years of age or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.

(d) Except as provided by subsection (e), a prosecution for any crime, as defined in K.S.A. 2013 Supp. 21-5102, and amendments thereto, not governed by subsection (a), (b) or (c) shall be commenced within five years after it is committed.

(e) The period within which a prosecution shall be commenced shall not include any period in which:

(1) The accused is absent from the state;

(2) the accused is concealed within the state so that process cannot be served upon the accused;

(3) the fact of the crime is concealed;

(4) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;

(5) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, which may be discovered as a result thereof regardless of who obtains the order of restraint; or

(6) whether the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present:

(A) The victim was a child under 15 years of age at the time of the crime;

(B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime;

(C) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the crime whether or not the parent or other legal authority is the accused; and

(D) there is substantially competent expert testimony indicating the

victim psychologically repressed such witness' memory of the fact of the crime, and in the expert's professional opinion the recall of such memory is accurate and free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information but in no event may a prosecution be commenced as provided in subsection (e)(6) later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the defendant committed similar acts against other persons or evidence of contemporaneous physical manifestations of the crime.

(f) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. *Time starts to run on the day after the offense is committed.*

(g) A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

(h) As used in this section, "parent or other legal authority" shall include, but not be limited to, natural and stepparents, grandparents, aunts, uncles or siblings.

Sec. 3. K.S.A. 2013 Supp. 21-5905 is hereby amended to read as follows: 21-5905. (a) Interference with the judicial process is:

(1) Communicating with any judicial officer in relation to any matter which is or may be brought before such judge, magistrate, master or juror with intent to improperly influence such officer;

(2) committing any of the following acts, with intent to influence, impede or obstruct the finding, decision, ruling, order, judgment or decree of such judicial officer or prosecutor on any matter then pending before the officer or prosecutor:

(A) Communicating in any manner a threat of violence to any judicial officer or any prosecutor;

(B) harassing a judicial officer or a prosecutor by repeated vituperative communication; or

(C) picketing, parading or demonstrating near such officer's or prosecutor's residence or place of abode;

(3) picketing, parading or demonstrating in or near a building housing a judicial officer or a prosecutor with intent to impede or obstruct the finding, decision, ruling, order, judgment or decree of such judicial officer or prosecutor on any matter then pending before the officer or prosecutor;

(4) knowingly accepting or agreeing to accept anything of value as consideration for a promise:

(A) Not to initiate or aid in the prosecution of a person who has committed a crime; or

(B) to conceal or destroy evidence of a crime;

(5) knowingly or intentionally in any criminal proceeding or investigation:

(A) Inducing a witness or informant to withhold or unreasonably delay in producing any testimony, information, document or thing;

(B) withholding or unreasonably delaying in producing any testimony, information, document or thing after a court orders the production of such testimony, information, document or thing;

(C) altering, damaging, removing or destroying any record, document or thing, with the intent to prevent it from being produced or used as evidence; or

(D) making, presenting or using a false record, document or thing with the intent that the record, document or thing, material to such criminal proceeding or investigation, appear in evidence to mislead a justice, judge, magistrate, master or law enforcement officer;~~or~~

(6) when performed by a person summoned or sworn as a juror in any case:

(A) Intentionally soliciting, accepting or agreeing to accept from another any benefit as consideration to wrongfully give a verdict for or against any party in any proceeding, civil or criminal;

(B) intentionally promising or agreeing to wrongfully give a verdict for or against any party in any proceeding, civil or criminal; or

(C) knowingly receiving any evidence or information from anyone in relation to any matter or cause for the trial of which such juror has been or will be sworn, without the authority of the court or officer before whom such juror has been summoned, and without immediately disclosing the same to such court or officer; or

(7) *knowingly making available by any means personal information about a judge or the judge's immediate family member, if the dissemination of the personal information poses an imminent and serious threat to the judge's safety or the safety of such judge's immediate family member, and the person making the information available knows or reasonably should know of the imminent and serious threat.*

(b) Interference with the judicial process as defined in:

(1) Subsection (a)(1) is a severity level 9, nonperson felony;

(2) subsection (a)(2) and (a)(3) is a class A nonperson misdemeanor;

(3) subsection (a)(4) is a:

(A) Severity level 8, nonperson felony if the crime is a felony; or

(B) class A nonperson misdemeanor if the crime is a misdemeanor;

(4) subsection (a)(5) is a:

(A) Severity level 8, nonperson felony if the matter or case involves a felony; or

(B) class A nonperson misdemeanor if the matter or case involves a misdemeanor;

(5) subsection (a)(6)(A) is a severity level 7, nonperson felony; ~~and~~

(6) subsection (a)(6)(B) or (a)(6)(C) is a severity level 9, nonperson felony; *and*

(7) *subsection (a)(7) is a:*

(A) *Class A person misdemeanor, except as provided in subsection (b)(7)(B); and*

(B) *severity level 9, person felony upon a second or subsequent conviction.*

(c) Nothing in this section shall limit or prevent the exercise by any court of this state of its power to punish for contempt.

(d) *As used in this section:*

(1) *“Immediate family member” means a judge’s spouse, child, parent or any other blood relative who lives in the same residence as such judge.*

(2) *“Judge” means any duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge.*

(3) *“Personal information” means a judge’s home address, home telephone number, personal mobile telephone number, pager number, personal e-mail address, personal photograph, immediate family member photograph, photograph of the judge’s home, and information about the judge’s motor vehicle, any immediate family member’s motor vehicle, any immediate family member’s place of employment, any immediate family member’s child care or day care facility and any immediate family member’s public or private school that offers instruction in any or all of the grades kindergarten through 12.*

Sec. 4. K.S.A. 2013 Supp. 21-6604 is hereby amended to read as follows: 21-6604. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense and may impose the provisions of subsection (q);

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2013 Supp. 8-1025, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a

condition of an original probation sentence ~~and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;~~

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (c) of K.S.A. 2013 Supp. 21-6602, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape from custody or aggravated escape from custody, as defined in K.S.A. 2013 Supp. 21-5911, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson or aggravated arson as defined in K.S.A. 2013 Supp. 21-5812, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) if the defendant is convicted of a misdemeanor or convicted of a felony specified in subsection (i) of K.S.A. 2013 Supp. 21-6804, and

amendments thereto, assign the defendant to work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A. 75-5202, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. On a second or subsequent conviction of K.S.A. 8-1567, and amendments thereto, an offender placed into a work release program shall serve the total number of hours of confinement mandated by that section;

(12) order the defendant to pay the full amount of unpaid costs associated with the conditions of release of the appearance bond under K.S.A. 22-2802, and amendments thereto;

(13) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12); or

(14) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 2013 Supp. 21-6107, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (d) of K.S.A. 2013 Supp. 21-6602, and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expend-

itures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2013 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed during a period of time during which the defendant would have been on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony had the defendant not been granted release by the court pursuant to subsection (d) of K.S.A. 2013 Supp. 21-6608, and amendments thereto, or the prisoner review board pursuant to K.S.A. 22-3717, and amendments thereto, the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(3) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2013 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the com-

mission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(4) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed consecutively pursuant to the provisions of K.S.A. 2013 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2013 Supp. 21-6824, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2013 Supp. 21-6824, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, the court shall consider

placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendments thereto, or a community intermediate sanction center. Pursuant to this subsection the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or community intermediate sanction center and the defendant meets all of the conservation camp's or community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or community intermediate sanction center.

(h) In committing a defendant to the custody of the secretary of corrections, the court shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct place-

ment to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate:

(1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, or for an offense which is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and such offense does not meet the requirements of K.S.A. 2013 Supp. 21-6824, and amendments thereto; and

(2) otherwise meets admission criteria of the camp.

If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 2013 Supp. 21-6608, and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) (1) Except as provided by subsection (f) of K.S.A. 2013 Supp. 21-6805, and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 2013 Supp. 21-5706, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 2013 Supp. 21-6824, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2013 Supp. 75-52,144, and amendments thereto, including, but not limited to, an approved after-care plan. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(2) If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the defendant's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to sanction or revocation pursuant to the provisions of K.S.A. 22-3716, and amendments thereto. If the defendant's probation is revoked, the defendant shall serve the underlying prison

sentence as established in K.S.A. 2013 Supp. 21-6805, and amendments thereto.

(A) Except as provided in subsection (n)(2)(B), for those offenders who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon completion of the underlying prison sentence, the offender shall not be subject to a period of postrelease supervision.

(B) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation is revoked pursuant to subsection (c) of K.S.A. 22-3716, and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to subsection (c)(1)(C) or (c)(1)(D) of K.S.A. 22-3716, and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 2013 Supp. 21-5706, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the

division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" mean the same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

(p) In addition to any of the above, for any criminal offense that includes the domestic violence designation pursuant to K.S.A. 2013 Supp. 22-4616, and amendments thereto, the court shall require the defendant to: (1) Undergo a domestic violence offender assessment conducted by a certified batterer intervention program; and (2) follow all recommendations made by such program, unless otherwise ordered by the court or the department of corrections. The court may order a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation would assist the court in determining an appropriate sentence. The entity completing the assessment or evaluation shall provide the assessment or evaluation and recommendations to the court and the court shall provide the domestic violence offender assessment to any entity responsible for supervising such defendant. A defendant ordered to undergo a domestic violence offender assessment shall be required to pay for the assessment and, unless otherwise ordered by the court or the department of corrections, for completion of all recommendations.

(q) In imposing a fine, the court may authorize the payment thereof in installments. In lieu of payment of any fine imposed, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed by the later of one year after the fine is imposed or one year after release from imprisonment or jail, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such rescission or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date. All credits for community service shall be subject to review and approval by the court.

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2013 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review board.

(s) Whenever the court has released the defendant on probation pursuant to subsection (a)(3), the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose the violation sanctions as provided in subsection (c)(1)(B) of K.S.A. 22-3716, and amendments thereto, without further order of the court, unless:

(1) The court has specifically withheld this authority in its sentencing order; or

(2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to subsection (b) of K.S.A. 22-3716, and amendments thereto, refuses to waive such right.

(t) Whenever the court has assigned the defendant to a community correctional services program pursuant to subsection (a)(4), the defendant's community corrections officer, with the concurrence of the community corrections director, may impose the violation sanctions as provided in subsection (c)(1)(B) of K.S.A. 22-3716, and amendments thereto, without further order of the court unless:

(1) The court has specifically withheld this authority in its sentencing order; or

(2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to subsection (b) of K.S.A. 22-3716, and amendments thereto, refuses to waive such right.

Sec. 5. K.S.A. 2013 Supp. 21-6608 is hereby amended to read as follows: 21-6608. (a) The period of suspension of sentence, probation or assignment to community corrections fixed by the court shall not exceed two years in misdemeanor cases, subject to renewal and extension for additional fixed periods of two years. Probation, suspension of sentence or assignment to community corrections may be terminated by the court at any time and upon such termination or upon termination by expiration of the term of probation, suspension of sentence or assignment to community corrections, an order to this effect shall be entered by the court.

(b) The district court having jurisdiction of the offender may parole any misdemeanant sentenced to confinement in the county jail. The period of such parole shall be fixed by the court and shall not exceed two years and shall be terminated in the manner provided for termination of suspended sentence and probation.

(c) For all crimes committed on or after July 1, 1993, the duration of probation in felony cases sentenced for the following severity levels on the sentencing guidelines grid for nondrug crimes and the sentencing guidelines grid for drug crimes is as follows:

(1) For nondrug crimes the recommended duration of probation is:

(A) 36 months for crimes in crime severity levels 1 through 5; and

(B) 24 months for crimes in crime severity levels 6 and 7;

(2) for drug crimes the recommended duration of probation is 36 months for crimes in crime severity levels 1 and 2 committed prior to July 1, 2012, and crimes in crime severity levels 1, 2 and 3 committed on or after July 1, 2012;

(3) except as provided further, in felony cases sentenced at severity levels 9 and 10 on the sentencing guidelines grid for nondrug crimes, severity level 4 on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, and severity level 5 of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, if a non-prison sanction is imposed, the court shall order the defendant to serve a period of probation of up to 12 months in length;

(4) in felony cases sentenced at severity level 8 on the sentencing guidelines grid for nondrug crimes, severity level 3 on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, and severity level 4 of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and felony cases sentenced pursuant to K.S.A. 2013 Supp. 21-6824, and amendments thereto, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of

probation, or assignment to a community correctional services program, as provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to 18 months in length;

(5) if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by the length of the probation terms provided in subsections (c)(3) and (c)(4), the court may impose a longer period of probation. Such an increase shall not be considered a departure and shall not be subject to appeal;

(6) except as provided in subsections (c)(7) and (c)(8), the total period in all cases shall not exceed 60 months, or the maximum period of the prison sentence that could be imposed whichever is longer. Nonprison sentences may be terminated by the court at any time;

(7) if the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. If the defendant is ordered to pay full or partial restitution, the period may be continued as long as the amount of restitution ordered has not been paid; and

(8) the court may modify or extend the offender's period of supervision, pursuant to a modification hearing and a judicial finding of necessity. Such extensions may be made for a maximum period of five years or the maximum period of the prison sentence that could be imposed, whichever is longer, inclusive of the original supervision term.

(d) In addition to the provisions of subsection (a), a defendant who has a risk assessment of low risk, has paid all restitution and has been compliant with the terms of probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction for a period of 12 months shall be eligible for discharge from such period of supervision by the court. The court shall grant such discharge unless the court finds ~~substantial and compelling reasons for~~ *by clear and convincing evidence that denial of such discharge will serve community safety interests.*

Sec. 6. K.S.A. 2013 Supp. 21-6614 is hereby amended to read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 of the drug grid may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community cor-

rectional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b), (c), (d), (e) and (f), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Any person convicted of prostitution, as defined in K.S.A. 21-3512, prior to its repeal, convicted of a violation of K.S.A. 2013 Supp. 21-6419, and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; and

(2) such person can prove they were acting under coercion caused by the act of another. For purposes of this subsection, “coercion” means: Threats of harm or physical restraint against any person; a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

(c) Except as provided in subsections (e) and (f), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity levels 1 through 4 of the drug grid, or:

(1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its repeal, or K.S.A. 2013 Supp. 21-5406, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(4) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(6) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(7) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(8) a violation of K.S.A. 21-3405b, prior to its repeal.

(d) No person may petition for expungement until ~~10~~ *seven* or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a violation of K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, including any diversion for such violation.

(e) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child or aggravated indecent liberties with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal, or K.S.A. 2013 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(5) indecent solicitation of a child or aggravated indecent solicitation of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2013 Supp. 21-5508, and amendments thereto;

(6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2013 Supp. 21-5510, and amendments thereto;

(7) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2013 Supp. 21-5604, and amendments thereto;

(8) endangering a child or aggravated endangering a child, as defined

in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2013 Supp. 21-5601, and amendments thereto;

(9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2013 Supp. 21-5602, and amendments thereto;

(10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2013 Supp. 21-5401, and amendments thereto;

(11) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2013 Supp. 21-5402, and amendments thereto;

(12) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2013 Supp. 21-5403, and amendments thereto;

(13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2013 Supp. 21-5404, and amendments thereto;

(14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2013 Supp. 21-5405, and amendments thereto;

(15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2013 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2013 Supp. 21-5505, and amendments thereto;

(17) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or

(18) any conviction for any offense in effect at any time prior to July 1, 2011, that is comparable to any offense as provided in this subsection.

(f) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(g) (1) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecutor and the arresting law enforcement agency. The petition shall state the:

(A) Defendant's full name;

(B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(C) defendant's sex, race and date of birth;

(D) crime for which the defendant was arrested, convicted or diverted;

(E) date of the defendant's arrest, conviction or diversion; and

(F) identity of the convicting court, arresting law enforcement authority or diverting authority.

(2) Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. On and after ~~April 12, 2012, through June 30, 2013~~ *July 1, 2013, through July 1,*

2015, the supreme court may impose a charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(3) All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the prisoner review board.

(h) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(i) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2013 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the ~~department for children and families~~ *Kansas department for aging and disability services*;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

(F) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(G) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(H) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(I) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-12a102, and amendments thereto;

(J) in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 2013 Supp. 75-7c01 et seq., and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(j) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted

a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(k) (1) Subject to the disclosures required pursuant to subsection (i), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime.

(2) Notwithstanding the provisions of subsection (k)(1), and except as provided in subsection (a)(3)(A) of K.S.A. 2013 Supp. 21-6304, and amendments thereto, the expungement of a prior felony conviction does not relieve the individual of complying with any state or federal law relating to the use, shipment, transportation, receipt or possession of firearms by persons previously convicted of a felony.

(1) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of the department for children and families for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department for children and families *Kansas department for aging and disability services* of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
- (7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission,

or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

(12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto;

(16) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act; or

(17) the Kansas bureau of investigation for the purposes of:

(A) Completing a person's criminal history record information within the central repository, in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(m) The provisions of subsection (l)(17) shall apply to records created prior to, on and after July 1, 2011.

Sec. 7. K.S.A. 22-3420 is hereby amended to read as follows: 22-3420. ~~(1)-(a)~~ When the case is finally submitted to the jury, they shall retire for deliberation. They must be kept together in some convenient place under charge of a ~~duly-sworn officer~~ *bailiff* until they agree upon a verdict, or be discharged by the court, subject to the discretion of the court to permit them to separate temporarily at night, and at their meals. The ~~officer~~ *bailiff* having them under ~~his-such bailiff's~~ charge shall not allow any communications to be made to them, or ~~make any himself communicate with them~~, unless by order of the court, ~~and before their~~. *Before the jury's* verdict is rendered ~~he the bailiff~~ shall not communicate to any person other than members of the jury shall be present in the jury room during deliberations.

~~(2)-(b)~~ If the jury is permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court that: (1) It is their duty not to converse with, or allow themselves to be addressed by any other person on any subject of the trial, and that *any attempt to do so should be immediately reported by them to the court*; (2) it is their duty not to ~~form or express an opinion thereon~~ *make any final determinations or express any opinion on any subject of the trial* until the case is finally submitted to them, ~~and that~~, and (3) such admonition shall apply to every subsequent separation of the jury.

~~(3)~~ ~~After the jury has retired for deliberation, if they desire to be informed as to any part of the law or evidence arising in the case, they may request the officer to conduct them to the court, where the information on the point of the law shall be given, or the evidence shall be read or exhibited to them in the presence of the defendant, unless he voluntarily absents himself, and his counsel and after notice to the prosecuting attorney.~~

(c) *In the court's discretion, upon the jury's retiring for deliberation, the jury may take any admitted exhibits into the jury room, where they may review them without further permission from the court. If necessary, the court may provide equipment to facilitate review.*

(d) *The jury shall be instructed that any question it wishes to ask the court about the instructions or evidence should be signed, dated and sub-*

*mitted in writing to the bailiff. The court shall notify the parties of the contents of the questions and provide them an opportunity to discuss an appropriate response. The defendant must be present during the discussion of such written questions, unless such presence is waived. The court shall respond to all questions from a deliberating jury in open court or in writing. In its discretion, the court may grant a jury's request to rehear testimony. The defendant must be present during any response if given in open court, unless such presence is waived. Written questions from the jury, the court's response and any objections thereto shall be made a part of the record.*

~~(4)~~(e) The jury may be discharged by the court on account of the sickness of a juror, or other accident or calamity, or other necessity to be found by the court requiring their discharge, or by consent of both parties, or after they have been kept together until it satisfactorily appears that there is no probability of their agreeing.

(f) *The amendments to this section by this act establish a procedural rule, and as such shall be construed and applied retroactively.*

Sec. 8. K.S.A. 2013 Supp. 22-3716 is hereby amended to read as follows: 22-3716. (a) At any time during probation, assignment to a community correctional services program, suspension of sentence or pursuant to subsection (e) for defendants who committed a crime prior to July 1, 1993, and at any time during which a defendant is serving a nonprison sanction for a crime committed on or after July 1, 1993, or pursuant to subsection (e), the court may issue a warrant for the arrest of a defendant for violation of any of the conditions of release or assignment, a notice to appear to answer to a charge of violation or a violation of the defendant's nonprison sanction. The notice shall be personally served upon the defendant. The warrant shall authorize all officers named in the warrant to return the defendant to the custody of the court or to any certified detention facility designated by the court. Any court services officer or community correctional services officer may arrest the defendant without a warrant or may deputize any other officer with power of arrest to do so by giving the officer a written or verbal statement setting forth that the defendant has, in the judgment of the court services officer or community correctional services officer, violated the conditions of the defendant's release or a nonprison sanction. A written statement delivered to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the defendant. After making an arrest, the court services officer or community correctional services officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with a crime shall be applicable to defendants arrested under these provisions.

(b) (1) Upon arrest and detention pursuant to subsection (a), the

court services officer or community correctional services officer shall immediately notify the court and shall submit in writing a report showing in what manner the defendant has violated the conditions of release or assignment or a nonprison sanction.

(2) Unless the defendant, after being apprised of the right to a hearing by the supervising court services or community correctional services officer, waives such hearing, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charged. The hearing shall be in open court and the state shall have the burden of establishing the violation. The defendant shall have the right to be represented by counsel and shall be informed by the judge that, if the defendant is financially unable to obtain counsel, an attorney will be appointed to represent the defendant. The defendant shall have the right to present the testimony of witnesses and other evidence on the defendant's behalf. Relevant written statements made under oath may be admitted and considered by the court along with other evidence presented at the hearing.

(3) (A) Except as otherwise provided, if the original crime of conviction was a felony, *other than a felony specified in subsection (i) of K.S.A. 2013 Supp. 21-6804, and amendments thereto*, and a violation is established, the court may impose the violation sanctions as provided in subsection (c)(1).

(B) Except as otherwise provided, if the original crime of conviction was a misdemeanor *or a felony specified in subsection (i) of K.S.A. 2013 Supp. 21-6804, and amendments thereto*, and a violation is established, the court may:

(i) Continue or ~~revoke~~ *modify* the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and ~~may impose confinement in a county jail not to exceed 60 days. If an offender is serving multiple probation terms concurrently, any confinement periods imposed shall be imposed concurrently;~~

(ii) *impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during the term of supervision; or*

(iii) *revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and require the defendant to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed.*

(4) Except as otherwise provided, if the defendant waives the right to a hearing and the sentencing court has not specifically withheld the authority from court services or community correctional services to im-

pose sanctions, the following sanctions may be imposed without further order of the court:

(A) If the defendant was on probation at the time of the violation, the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose ~~the violation sanctions as provided in subsection (c)(1)(B)~~ *an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(B) and (c)(1)(B) shall not exceed 18 total days during the term of supervision;* and

(B) if the defendant was assigned to a community correctional services program at the time of the violation, the defendant's community corrections officer, with the concurrence of the community corrections director, may impose ~~the violation sanctions as provided in subsection (c)(1)(B)~~ *an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (c)(1)(B) shall not exceed 18 total days during the term of supervision.*

(c) (1) Except as otherwise provided, ~~if the original crime of conviction was a felony, other than a felony specified in subsection (i) of K.S.A. 2013 Supp. 21-6804, and amendments thereto, and a violation is established, the following violation sanctions may be imposed~~ *the court may impose the following sanctions:*

(A) Continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction;

(B) ~~continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and~~ *an intermediate sanction of confinement in a county jail for a total of not more than six days per month in any three separate months during the period of release supervision. The six days per month confinement may only to be imposed as a two-day or three-day consecutive periods, not to exceed 18 days of total confinement period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during the term of supervision;*

(C) if the violator already had at least one intermediate sanction imposed pursuant to subsection (b)(4)(A), (b)(4)(B) or (c)(1)(B) related to the ~~felony~~ *crime for which the original supervision was imposed, continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and* remanding the defendant to the custody of the secretary of corrections for a period of 120 days, subject to a reduction of up to 60 days in the discretion of the secretary. This sanction

shall not be imposed more than once during the term of supervision. *The sanction imposed pursuant to this subparagraph shall begin upon pronouncement by the court and shall not be served by prior confinement credit, except as provided in subsection (c)(7);*

(D) if the violator already had a sanction imposed pursuant to subsection (b)(4)(A), (b)(4)(B), (c)(1)(B) or (c)(1)(C) related to the ~~felony~~ crime for which the original supervision was imposed, *continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and remanding the defendant to the custody of the secretary of corrections for a period of 180 days, subject to a reduction of up to 90 days in the discretion of the secretary. This sanction shall not be imposed more than once during the term of supervision. The sanction imposed pursuant to this subparagraph shall begin upon pronouncement by the court and shall not be served by prior confinement credit, except as provided in subsection (c)(7);* or

(E) if the violator already had a sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D) related to the ~~felony~~ crime for which the original supervision was imposed, revocation of the probation, assignment to a community corrections services program, suspension of sentence or nonprison sanction and requiring such violator to serve the sentence imposed, or any lesser sentence and, if imposition of sentence was suspended, imposition of any sentence which might originally have been imposed.

(2) Except as otherwise provided in subsections (c)(3), (c)(8) and (c)(9), no offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section shall be required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections for such violation, unless such person has already *had* at least one prior assignment to a community correctional services program related to the crime for which the original sentence was imposed.

(3) The provisions of subsection (c)(2) shall not apply to adult felony offenders as described in subsection (a)(3) of K.S.A. 75-5291, and amendments thereto.

(4) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate

will not be served by such assignment to a community correctional services program.

(5) When a new felony is committed while the offender is on probation or assignment to a community correctional services program, the new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2013 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(6) Except as provided in subsection (f), upon completion of a violation sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D) such offender shall return to community correctional services supervision. The sheriff shall not be responsible for the return of the offender to the county where the community correctional services supervision is assigned.

(7) A violation sanction imposed pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D) shall not be longer than the amount of time remaining on the ~~defendant's~~ offender's underlying prison sentence.

(8) If the offender commits a new felony or misdemeanor or absconds from supervision while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (c)(1)(E) without having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D).

(9) The court may revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (c)(1)(E) without having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D) if the court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the offender will not be served by such sanction.

(10) *If an offender is serving multiple probation terms concurrently, any violation sanctions imposed pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D), or any sanction imposed pursuant to subsection (c)(11), shall be imposed concurrently.*

(11) *If the original crime of conviction was a felony, except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2013 Supp. 8-1025, and amendments thereto, and the court makes a finding that the offender has committed one or more violations of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may impose confinement in a county jail not to exceed 60 days upon each such finding. Such confinement is separate and distinct from the violation sanctions provided in*

*subsection (c)(1)(B), (c)(1)(C), (c)(1)(D) and (c)(1)(E) and shall not be imposed at the same time as any such violation sanction.*

(12) *The violation sanctions provided in this subsection shall apply to any violation of conditions of release or assignment or a nonprison sanction occurring on and after July 1, 2013, regardless of when the offender was sentenced for the original crime or committed the original crime for which sentenced.*

(d) A defendant who is on probation, assigned to a community correctional services program, under suspension of sentence or serving a nonprison sanction and for whose return a warrant has been issued by the court shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it appears that the defendant has violated the provisions of the defendant's release or assignment or a nonprison sanction, the court shall determine whether the time from the issuing of the warrant to the date of the defendant's arrest, or any part of it, shall be counted as time served on probation, assignment to a community correctional services program, suspended sentence or pursuant to a nonprison sanction.

(e) The court shall have 30 days following the date probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction was to end to issue a warrant for the arrest or notice to appear for the defendant to answer a charge of a violation of the conditions of probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction.

(f) For crimes committed on and after July 1, 2013, ~~an~~ a felony offender whose nonprison sanction is revoked pursuant to subsection (c) or whose underlying prison term expires while serving a sanction pursuant to subsection (c)(1)(C) or (c)(1)(D) shall serve a period of postrelease supervision upon the completion of the prison portion of the underlying sentence.

(g) Offenders who have been sentenced pursuant to K.S.A. 2013 Supp. 21-6824, and amendments thereto, and who subsequently violate a condition of the drug and alcohol abuse treatment program shall be subject to an additional nonprison sanction for any such subsequent violation. Such nonprison sanctions shall include, but not be limited to, up to 60 days in a county jail, fines, community service, intensified treatment, house arrest and electronic monitoring.

Sec. 9. K.S.A. 22-3420 and K.S.A. 2013 Supp. 21-2511, 21-5107, 21-5905, 21-6328, 21-6329, 21-6604, 21-6608, 21-6614, 21-6614d and 22-3716 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 103

Senate Substitute for Substitute for HOUSE BILL No. 2051°

AN ACT concerning wildlife; enacting the state sovereignty over non-migratory wildlife act.

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

Section 1. Sections 1 through 8, and amendments thereto, may be cited as the state sovereignty over non-migratory wildlife act.

Sec. 2. The legislature declares that the authority for the state sovereignty over non-migratory wildlife act is the following:

(a) The tenth amendment to the constitution of the United States guarantees to the states and their people all powers not granted to the federal government elsewhere in the constitution and reserves to the state and people of Kansas certain powers as they were understood at the time that Kansas was admitted to statehood in 1861. The guaranty of those powers is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

(b) Article II, section 1 of the constitution of the state of Kansas authorizes the legislature of the state of Kansas to exercise the legislative power of the state, including the general police powers inherent in a sovereign state.

Sec. 3. As used in the state sovereignty over non-migratory wildlife act:

(a) “Borders of Kansas” means the boundaries of Kansas described in the act for admission of Kansas into the union, 12 stat. 126, ch. 20, § 1.

(b) “Lesser prairie chicken” means the species *tympanuchus pallidicinctus*.

(c) “Greater prairie chicken” means the species *tympanuchus cupido*.

Sec. 4. (a) The lesser prairie chicken and the greater prairie chicken are non-migratory species that are native to the grasslands of Kansas.

(b) The lesser prairie chicken and the greater prairie chicken do not inhabit or swim in any static bodies of water, navigable waterways or non-navigable waterways.

(c) The existence and management of the lesser prairie chicken and the greater prairie chicken do not have a substantial effect on commerce among the states.

(d) The Kansas department of wildlife, parks and tourism, and its predecessor agencies, have successfully managed lesser prairie chickens and greater prairie chickens in the state and have provided for the adequate preservation of the habitats of such species.

Sec. 5. (a) The state of Kansas, acting through the Kansas legislature

and through the Kansas department of wildlife, parks and tourism, possesses the sole regulatory authority to govern the management, habitats, hunting and possession of lesser prairie chickens and greater prairie chickens that exist within the state of Kansas.

(b) The lesser prairie chickens and the greater prairie chickens that exist within the state and the habitats of such species, are not subject to the endangered species act of 1973, as in effect on the effective date of this act, or any federal regulation or executive action pertaining thereto, under the authority of congress to regulate interstate commerce.

(c) Any federal regulation or executive action pertaining to the endangered species act of 1973, as in effect on the effective date of this act, that purports to regulate the following has no effect within the state:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or the habitats of such species.

Sec. 6. A county or district attorney, or the attorney general may seek injunctive relief in any court of competent jurisdiction to enjoin any official, agent or employee of the government of the United States or employee of a corporation providing services to the government of the United States from enforcing any federal regulation or executive action pertaining to the endangered species act of 1973, as in effect on the effective date of this act, that purports to regulate the following within the state:

- (a) The lesser prairie chicken;
- (b) the greater prairie chicken;
- (c) the habitats of such species;
- (d) farming practices that affect such species; or
- (e) other human activity that affects such species or the habitats of such species.

Sec. 7. (a) This act shall not be construed to infringe on the authority of the United States department of agriculture to administer conservation programs that apply to:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or habitats of such species.

(b) This act shall not be construed to infringe on the authority of the United States environmental protection agency, or the state of Kansas under delegated authority, to administer the federal water pollution pre-

vention and control act, as in effect on the effective date of this act, or the clean air act, as in effect on the effective date of this act, to the extent it may apply to:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or habitats of such species.

(c) This act shall not be construed to infringe on the authority of the Kansas department of wildlife, parks and tourism or any private citizen of this state to operate or participate in the range wide lesser prairie chicken management plan, the stakeholder conservation strategy for the lesser prairie chicken, or any other management or conservation plan pertaining to the lesser prairie chicken that may be developed with the assistance and participation of the United States fish and wildlife service and apply to:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or habitats of such species.

Sec. 8. If any provision of the state sovereignty over non-migratory wildlife act or the application to any person or circumstance is held to be invalid in any court of competent jurisdiction, such invalidity shall not affect the other provisions or application of such act. To this end, the provisions of such act are declared to be severable.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 9, 2014.

Published in the *Kansas Register* May 22, 2014.

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## CHAPTER 104

## HOUSE BILL No. 2596

AN ACT concerning state officers and employees; relating to furloughs or reduction in compensation; the Kansas public employees retirement system and systems thereunder, computation of benefits; amending K.S.A. 74-49,115 and repealing the existing section.

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

Section 1. K.S.A. 74-49,115 is hereby amended to read as follows: 74-49,115. (a) When the compensation for any officer or employee of the state, who retires, becomes disabled or dies ~~during the period commencing on the effective date of this act and ending June 30, 2007,~~ is reduced pursuant to law, when such officer or employee voluntarily agrees to reduce such officer or employee's compensation, or when any officer or employee of the state is placed on a furlough without pay, the amount of compensation that would have been paid if the rate of compensation had not been reduced or if the officer or employee had not been placed on the furlough shall continue to be included as compensation for all purposes of computing retirement and pension benefits and death and disability benefits as provided in article 26 of chapter 20 and article 49 of chapter 74 of the Kansas Statutes Annotated, *and amendments thereto*, earned by such officer or employee as provided by the Kansas public employees retirement system, the Kansas police and firemen's retirement system and the retirement system for judges. Subject to the approval of the secretary of administration, the director of accounts and reports shall prescribe procedures for the payment and remittance of employer and employee contributions by the state agency employing such employees. The board shall administer the provisions of this section, with the cooperation of the director of personnel services.

(b) The provisions of subsection (a) shall not be applicable to compensation reductions attributable to: (1) Voluntary demotions of employees in the classified service; (2) deferred compensation pursuant to the plan authorized by K.S.A. 75-5523, and amendments thereto; or (3) to compensation reductions attributable to the cafeteria plan authorized by K.S.A. 75-6512, and amendments thereto.

(c) For the purposes of this section, "officer" and "employee" means any officer or employee of the state, any member *or employee* of the legislature or any employee of an institution under the supervision of the board of regents *who are members of the Kansas public employees retirement system, the Kansas police and firemen's retirement system or the retirement system for judges.*

Sec. 2. K.S.A. 74-49,115 is hereby repealed.

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

Approved May 12, 2014.

## CHAPTER 105

## HOUSE BILL No. 2687

AN ACT concerning the distribution of unclaimed property act; relating to hearings; amending K.S.A. 58-3963 and 58-3967 and repealing the existing sections.

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

Section 1. K.S.A. 58-3963 is hereby amended to read as follows: 58-3963. (a) The administrator may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this act.

(b) The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with the provisions of this act. The provisions of this section shall not apply to any supervised commercial bank, trust company, savings and loan association, savings bank, credit union; or insurance company which provides a letter from an independent certified public accountant or a resolution of its board of directors certifying compliance with this act, unless there is notification of noncompliance by a supervising agency of such commercial bank, trust company, savings and loan association, savings bank, credit union; or insurance company.

(c) If a person is treated under ~~K.S.A. 58-3945~~ 58-3935, and amendments thereto, as the holder of the property only insofar as the interest of the business association in the property is concerned, the administrator, pursuant to subsection (b), may examine the records of the person if the administrator has given the notice required by subsection (b) to both the person and the business association at least 90 days before the examination.

(d) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this act, the administrator may assess the cost of the examination against the holder based upon the actual hourly salary rate for each examiner involved in the examination inclusive of travel to and from the place of the examination along with necessary and actual expenses for travel and subsistence as allowed under K.S.A. 75-3201 et seq., and amendments thereto, along with any consulting, data processing or other related expenses necessary to perform the examination. In no case may the examination charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to subsection (c) may be imposed only against the business association.

(e) If a holder fails after the effective date of this act to maintain the records required by K.S.A. 58-3964, and amendments thereto, and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may

require the holder to report and pay such amounts as may reasonably be estimated from any available records.

*(f) If there is a dispute in the results of the examination of the records regarding the disclosure of property reportable and deliverable pursuant to this act, the administrator may hold a hearing on the audit results in accordance with the provisions of the Kansas administrative procedure act. The presiding officer for the hearing shall be appointed by the office of administrative hearings pursuant to K.S.A. 77-561 et seq., and amendments thereto. Any decisions resulting from such hearings shall be public record.*

Sec. 2. K.S.A. 58-3967 is hereby amended to read as follows: 58-3967.

(a) A person who willfully fails to present a report to the administrator when due or to perform any other duty required by this act, other than payment or delivery of unclaimed property as required by this act, shall pay a civil penalty of \$100 for each day the report is not presented or the duty is not performed, except the total civil penalty shall not exceed \$5,000.

(b) A person who willfully fails to send written notice as required in K.S.A. 58-3950, and amendments thereto, shall pay a civil penalty not to exceed \$5 for each failure to send written notice to an apparent owner.

(c) A person who willfully fails to pay or deliver to the administrator any unclaimed property as required by this act shall pay a civil penalty equal to 25% of the value of the property that should have been paid or delivered.

(d) A person who fails to pay or deliver unclaimed property to the administrator within the time period required by this act shall pay to the administrator interest at the annual rate of 10% above the annual rate of discount, in effect on the date the property should have been paid or delivered, for the most recent issue of ~~fifty-two-week~~ *52-week* United States treasury bills, calculated upon the value of the unclaimed property from the date that property should have been paid or delivered. If the property remains unpaid or undelivered for more than one year after becoming payable or deliverable, the interest rate for each succeeding year shall be calculated at an annual rate of 10% above the discount rate on each succeeding anniversary of the date that the unclaimed property was payable or distributable. For the purposes of assessing and calculating the penalties and interest on unclaimed property that was discovered during an examination or audit and that was not paid or distributed, as required, the date upon which the unclaimed property should have been paid or delivered shall be used as the date upon or from which penalties and interest are assessed and calculated.

~~(e) A person who willfully refuses after written demand by the administrator to pay or deliver property to the administrator as required under this act is guilty of a class B misdemeanor.~~

~~(f)~~—The administrator shall have discretion to waive or reduce the payment of penalties and interest in an appropriate circumstance.

Sec. 3. K.S.A. 58-3963 and 58-3967 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 12, 2014.

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## CHAPTER 106

Senate Substitute for HOUSE BILL No. 2693

AN ACT concerning motor vehicles; relating to driver's licenses; commercial vehicles, skills test; examiners; amending K.S.A. 74-2015 and K.S.A. 2013 Supp. 8-2,133 and repealing the existing sections.

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

Section 1. K.S.A. 2013 Supp. 8-2,133 is hereby amended to read as follows: 8-2,133. (a) Except as provided in K.S.A. 8-2,146, and amendments thereto, or as provided in K.S.A. 8-2,148, and amendments thereto, no person may be issued a commercial driver's license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by 49 C.F.R. § 383, subparts E, G and H and has satisfied all other requirements of the commercial motor vehicle safety act in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the secretary, except that the secretary may accept the results of a person's knowledge test conducted in another state if such test complies with minimum federal standards. *The secretary shall accept results of a person's skills test given in accordance with the provisions of subsection (c).*

(b) The secretary may authorize a person, including an agency of this or another state, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of local government, to administer the skills test specified by this section, if:

(1) The test is the same which would otherwise be administered by the state; and

(2) the third party has entered into an agreement with the state which complies with requirements of 49 C.F.R. § 383.75.

(c) *The secretary shall authorize any community college or technical college, upon such community college's or technical college's request, to administer the skills test required by subsection (a). The secretary shall grant priority status to requests by any community college or technical college with a truck driver training course in place as of July 1, 2014. The*

*secretary shall authorize such testing which complies with the requirements of 49 C.F.R. Part 383 in an agreement between the requesting community college or technical college and the state. The secretary shall adopt rules and regulations to implement the testing procedure provided for in this subsection before January 1, 2015.*

(d) A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked or canceled in any state; nor shall a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

~~(d)~~(e) The director may authorize the skills test required by subsection (a) to be waived for an applicant that provides evidence of military commercial vehicle driving experience. To qualify for such a waiver, the applicant must satisfy the criteria established by 49 C.F.R. § 383.77.

Sec. 2. K.S.A. 74-2015 is hereby amended to read as follows: 74-2015. Within the division of vehicles, there shall be a supervisor of driver's license examiners and such driver's license examiners as may be needed. Said supervisor and all such driver's license examiners shall be within the classified service under the Kansas civil service act. *Any person employed by a third party who has entered into a contract with the department of revenue pursuant to K.S.A. 8-129, and amendments thereto, to provide services of a driver's license examiner shall not be required to be within the classified service under the Kansas civil service act.* Such driver's license examiners shall make and conduct all examinations of applicants for operator's and chauffeur's licenses required by law, and shall exercise and enforce the licensing provisions of the operator's and chauffeur's licensing act, and shall perform such other duties as may be prescribed by law or by the director of vehicles. All such driver's license examiners are hereby vested with the power and authority of peace and police officers in the execution of the duties imposed upon them by this act and by the director of vehicles. The director of vehicles shall determine what, if any, vehicles, equipment and supplies, and insignia of office are needed by driver's license examiners. The property so determined to be needed shall be furnished without expense to such examiners. All property so furnished shall remain the property of the state and be strictly accounted for by each driver's license examiner. The secretary of revenue may adopt rules and regulations for the conduct and duties of driver's license examiners.

Sec. 3. K.S.A. 74-2015 and K.S.A. 2013 Supp. 8-2,133 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 12, 2014.

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CHAPTER 107  
HOUSE BILL No. 2487

AN ACT concerning the state corporation commission; concerning the powers and duties thereof; issuance of certificates of public convenience and necessity; amending K.S.A. 66-106 and K.S.A. 2013 Supp. 66-131 and repealing the existing sections.

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

Section 1. K.S.A. 66-106 is hereby amended to read as follows: 66-106. (a) The state corporation commission shall have power to adopt reasonable and proper rules and regulations to govern its proceedings, including the assessment and taxation of costs on any complaint provided for in K.S.A. 66-133, and amendments thereto, and to regulate the mode and manner of all investigations, tests, audits, inspections and hearings not specifically provided for herein, except that no person desiring to be present at any investigation or hearing by the commission shall be denied admission.

(b) The state corporation commission may:

(1) Confer with officers of other states and officers of the United States on any matter pertaining to the state corporation commission's official duties; ~~and~~

(2) (A) enter into and establish fair and equitable cooperative agreements or contracts with or act as an agent or licensee for the United States, or any official, agency or instrumentality thereof, or any railroad, public utility or similar commission of another state, for the purpose of carrying out the state corporation commission's duties; (B) to that end receive and disburse any contributions, grants or other financial assistance as a result of or pursuant to such agreements or contracts; and (C) make joint investigations, hold joint hearings within or outside the state and issue joint or concurrent orders in conjunction or concurrence with such official, agency, instrumentality or commission; *and*

(3) *on its own, or in association with others with similar interests, intervene or otherwise participate in other state or federal proceedings on any matter the state corporation commission reasonably believes pertains to the commission's official duties. Upon conferral with the attorney general, the commission has discretion to file amicus briefs with any court within the state or federal government.*

(c) The attorney general, when requested, shall give the state corporation commission or the attorney for the commission such counsel and

advice as the commission or the attorney for the commission may from time to time require. It is hereby made the duty of the attorney general to aid and assist the commission and the attorney for the commission in all hearings, suits and proceedings in which the commission or attorney for the commission requests the attorney general's assistance.

Sec. 2. K.S.A. 2013 Supp. 66-131 is hereby amended to read as follows: 66-131. (a) No *person or entity seeking to construct electric transmission lines as defined in K.S.A. 66-1,177, and amendments thereto, or common carrier or public utility, including that portion of any municipally owned utility defined as a public utility by K.S.A. 66-104, and amendments thereto*, governed by the provisions of this act shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience *and necessity* will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state. In no event shall such jurisdiction authorize the corporation commission to review, consider or effect the facilities or rates charged for services or in any way the operation of such municipally owned or operated electric or gas utility within the corporate limits or outside but within three miles of the corporate limits of any city, or facilities, or rates charged for services or in any way the operation of facilities or their replacements now owned by any such utility. No prescribed rates, orders or other regulatory supervision of the corporation commission shall be contrary to any lawful provision of any revenue bond ordinance authorizing the issuance of revenue bonds to finance all or any part of the municipally owned or operated electric or gas utility so subjected to the jurisdiction of the corporation commission. This section shall not apply to any common carrier or public utility governed by the provisions of this act now transacting business in this state, nor shall this section apply to the facilities and operations of any municipally owned or operated utility supplying electricity or gas outside of the corporate limits of any municipality where such facilities and operations are in existence on the effective date of this act, but any extension of such facilities or any new facilities located outside of and more than three miles from the municipality's corporate limits, shall be subject to the requirements of this section, nor shall this section apply to any municipally owned or operated electric or gas utility furnishing electricity or gas to a facility owned or jointly owned by such municipality and located outside the corporate limits of such municipality.

(b) The commission shall issue a decision on a common carrier or public utility's application for a certificate of public convenience *and necessity* within 180 days of receiving the application. Nothing in this subsection shall preclude an applicant and the commission from agreeing to a waiver or an extension of the 180-day period.

(c) *The commission shall issue a decision on a common carrier or*

*public utility's application for mergers or acquisitions within 300 days of receiving the application. Nothing in this subsection shall preclude an applicant and the commission from agreeing to a waiver or an extension of the 300-day period. The commission shall expeditiously process every application covered within this subsection.*

Sec. 3. K.S.A. 66-106 and K.S.A. 2013 Supp. 66-131 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 12, 2014.

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CHAPTER 108  
HOUSE BILL No. 2580

AN ACT concerning real estate appraisers; relating to licensing; compliance standards; amending K.S.A. 58-4121 and repealing the existing section.

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

New Section 1. (a) The real estate appraisal board may require the following individuals to be fingerprinted and submit to a state and national criminal history record check:

(1) An individual applying for: (A) An original license or certification; (B) licensure by reciprocity or endorsement; or (C) renewal of a license or certification; or

(2) a currently licensed or certified individual, if necessary, to investigate a complaint or if required by the appraisal subcommittee.

(b) The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. The board is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The board may use the information obtained from the fingerprinting and the individual's criminal history for purposes of verifying the identification of any individual and in the official determination of the qualifications and fitness of the individual to be issued, to maintain or to renew a license or certification.

(c) Local and state law enforcement officers and agencies shall assist the board in taking and processing fingerprints of individuals as required by this section and shall release all records of adult convictions to the board. Local law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section.

(d) The board may fix and collect a fee in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. The board is hereby authorized to adopt rules and regulations pertaining to such fee.

(e) This section shall be part of and supplemental to the state certified and licensed real property appraisers act.

Sec. 2. K.S.A. 58-4121 is hereby amended to read as follows: 58-4121. A state certified or licensed appraiser shall comply with the *2014-2015 edition of the* uniform standards of professional appraisal practice promulgated pursuant to federal law or *later versions as established in rules and regulations adopted by the board.*

Sec. 3. K.S.A. 58-4121 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 12, 2014.

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## CHAPTER 109

### HOUSE BILL No. 2668\*

AN ACT concerning health care predetermination requests relating to health insurance benefits coverage.

WHEREAS, The legislature hereby finds and declares that:

(1) Health plans have the ability today to provide a real-time explanation of benefits (EOB), enabling patients and their physicians to learn how a claim for services will be adjudicated at the point of care, including information on if the service is covered, the amount to be paid to the physician and the patient's financial responsibility for copayments, coinsurance and any remaining deductible obligation;

(2) real-time EOBs have the potential to significantly reduce health care costs by making the true cost of health care services transparent to patients and their physicians at the time treatment decisions are being made and by reducing the costs of collections which accrue when paper EOBs are not received until weeks or months after the services are provided; and

(3) real-time EOBs also have the potential to eliminate the financial uncertainty that currently plagues the health care system and would remove another layer of complexity and anxiety for patients at a time when they should be focused on their health. This is particularly important for patients for whom this financial exposure may be large, such as for the increasing number of patients with high-deductible health plans, or for those patients who purchase coverage on a health insurance exchange,

for whom relatively modest changes to patient income can affect eligibility and enrollment status as they transition between medicaid, subsidized and unsubsidized qualified health plans; and

WHEREAS, The people of the state of Kansas would all benefit if health plans were required to provide real-time EOBs on request when a physician submits an electronic claim predetermination request:

Now, therefore,

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

Section 1. (a) This section shall be known as and may be cited as the predetermination of health care benefits act.

(b) (1) Health plans that receive an electronic health care predetermination request consistent with the requirements set forth in subsection (c) shall provide to the requesting healthcare provider information on the amounts of expected benefits coverage on the procedures specified in the request that is accurate at the time of the health plan's response.

(2) Any predetermination request provided under this section in good faith shall be deemed to be an estimate only and shall not be binding upon the health plan with regard to the final amount of benefits actually provided by the health plan.

(c) The amounts for the referenced services in subsection (b) shall include:

(1) The amount the patient will be expected to pay, clearly identifying any deductible amount, coinsurance and copayment;

(2) the amount the healthcare provider will be paid;

(3) the amount the institution will be paid; and

(4) whether any payments will be reduced, but not to \$0, or increased from the agreed fee schedule amounts, and if so, the health care policy that identifies why the payments will be reduced or increased.

(d) This electronic request and response transaction shall be known as the health care predetermination request and response. The health care predetermination request and response shall be conducted in accordance with the transactions and code sets standards promulgated pursuant to the health insurance portability and accountability act of 1996 (HIPAA) public law 104-191, and 45 code of federal regulations, parts 160 and 162 or later versions, specifically, the ASC X12 837 health care predetermination: Professional transaction or the ASC X12 837 health-care predetermination; institutional and any of their respective successors, without regard to whether this transaction is mandated by HIPAA. It shall also comply with any operating rules that may be adopted with respect to this transaction or any of its successors, without regard to whether these operating rules are mandated by HIPAA.

(e) The health plan's response to the health care predetermination request shall be returned using the same transmission method as that of the submission.

(f) For purposes of this section:

(1) “Health plan” shall have the same meaning as that term is defined in K.S.A. 40-4602, and amendments thereto;

(2) “healthcare provider” shall have the same meaning as the term “provider” as such term is defined in K.S.A. 40-4602, and amendments thereto. Healthcare provider shall also include:

(A) An advanced practice registered nurse as defined in K.S.A. 65-1113, and amendments thereto; and

(B) a physician assistant as defined in K.S.A. 65-28a02, and amendments thereto; and

(3) “payment” means only a deductible or coinsurance payment and does not include a copayment.

(g) This act precludes the collection of any payment prior to or as a condition of receiving the health benefit services that are the subject of a predetermination request, unless this practice is not prohibited by the provider agreement with the health plan.

(h) The commissioner of insurance shall adopt rules and regulations necessary to carry out the provisions of this section.

Sec. 2. This act shall take effect and be in force from and after July 1, 2017, and its publication in the statute book.

Approved May 12, 2014.

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## CHAPTER 110

### HOUSE BILL No. 2312

AN ACT concerning local governments; relating to the investment of idle funds; amending K.S.A. 2013 Supp. 12-1675 and repealing the existing section.

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

Section 1. K.S.A. 2013 Supp. 12-1675 is hereby amended to read as follows: 12-1675. (a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen’s relief association, community mental health center, community facility for people with intellectual disability or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest any moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other statute.

(b) Such moneys shall be invested only:

(1) In temporary notes or no-fund warrants issued by such investing governmental unit;

(2) in savings deposits, demand deposits, time deposit, open accounts, certificates of deposit or time certificates of deposit with maturities of not more than two years: (A) In banks, savings and loan associations and savings banks, which have main or branch offices located in such investing governmental unit; or (B) if no main or branch office of a bank, savings and loan association or savings bank is located in such investing governmental unit, then in banks, savings and loan associations and savings banks, which have main or branch offices in the county or counties in which all or part of such investing governmental unit is located;

(3) in repurchase agreements with: (A) Banks, savings and loan associations and savings banks, which have main or branch offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or (B) (i) if no main or branch office of a bank, savings and loan association or savings bank, is located in such investing governmental unit; or (ii) if no such bank, savings and loan association or savings bank having a main or branch office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks which have main or branch offices in the county or counties in which all or part of such investing governmental unit is located; or (C) if no bank, savings and loan association or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within this state;

(4) in ~~United States treasury bills or notes~~ *direct obligations of or obligations that are insured as to principal and interest by the United States or any agency thereof, not including mortgage-backed securities* with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the federal reserve bank of Kansas City, Missouri; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 17-12a401, and amendments thereto;

(5) in the municipal investment pool fund established in K.S.A. 12-1677a, and amendments thereto;

(6) in the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b, and amendments thereto;

(7) in multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in the county or counties where such investing governmental unit is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with banks which have main or branch offices located in the county or counties in which such investing governmental unit is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph shall be subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 12-1677a, and amendments thereto; or

(8) municipal bonds or other obligations issued by any municipality of the state of Kansas as defined in K.S.A. 10-1101, and amendments thereto, which are general obligations of the municipality issuing the same.

(c) The investments authorized in paragraphs (4), (5), (6), (7) or (8) of subsection (b) shall be utilized only if the banks, savings and loan associations and savings banks eligible for investments authorized in paragraph (2) of subsection (b), cannot or will not make the investments authorized in paragraph (2) of subsection (b) available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto.

(d) In selecting a depository pursuant to paragraph (2) of subsection (b), if a bank, savings and loan association or savings bank eligible for an investment deposit thereunder has an office located in the investing governmental unit and such financial institution will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such deposit, the investing governmental unit shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the investing governmental unit may select for such deposits one or more eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or a part of such investing governmental unit is located which will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.

(e) (1) All security purchases and repurchase agreements shall occur on a delivery versus payment basis.

(2) All securities, including those acquired by repurchase agreements, shall be perfected in the name of the investing governmental unit and shall be delivered to the purchaser or a third-party custodian which may be the state treasurer.

(f) Public moneys deposited pursuant to subsection (b)(2) of K.S.A. 12-1675, and amendments thereto, by the governing body of any governmental unit listed in subsection (a) of K.S.A. 12-1675, and amendments thereto, through a selected bank, savings and loan association or savings bank which is part of a reciprocal deposit program in which the bank, savings and loan association or savings bank:

(1) Receives reciprocal deposits from other participating institutions located in the United States in an amount equal to the amount of funds deposited by the municipal corporation or quasi-municipal corporation; and

(2) for which the total cumulative amount of each deposit does not exceed the maximum deposit insurance amount for one depositor at one financial institution as determined by the federal deposit insurance corporation.

Such deposits shall not be treated as securities and need not be secured as provided in this or any other act.

Sec. 2. K.S.A. 2013 Supp. 12-1675 is hereby repealed.

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

Approved May 12, 2014.

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## CHAPTER 111

Substitute for HOUSE BILL No. 2246\*

AN ACT concerning peer review for certain technical professions.

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

Section 1. (a) As used in this section:

(1) “Board” means the state board of technical professions established pursuant to K.S.A. 74-7004, and amendments thereto.

(2) “Design profession” means the practice of architecture, landscape architecture, land surveying, geology or engineering as specified in K.S.A. 74-7003, and amendments thereto.

(3) “Design professional” means an architect, landscape architect, land surveyor, geologist or professional engineer or a business entity au-

thorized pursuant to K.S.A. 74-7036, and amendments thereto, to practice one or more of the technical professions specified in paragraph (2).

(4) “Architect” shall have the meaning ascribed to such term in K.S.A. 74-7003, and amendments thereto.

(5) “Geologist” shall have the meaning ascribed to such term in K.S.A. 74-7003, and amendments thereto.

(6) “Landscape architect” shall have the meaning ascribed to such term in K.S.A. 74-7003, and amendments thereto.

(7) “Land surveyor” shall have the meaning ascribed to such term in K.S.A. 74-7003, and amendments thereto.

(8) “Professional engineer” shall have the meaning ascribed to such term in K.S.A. 74-7003, and amendments thereto.

(9) “Lessons learned” means any internal meeting, class, publication in any medium, presentation, lecture, or other means of teaching and communicating after substantial completion of the project which are conducted solely and exclusively by and with the employees, partners, and coworkers of the design professional who prepared the project’s design for the purpose of learning best practices and reducing errors and omissions in design documents and procedures.

(10) “Peer review” or “peer review process” means any of the following functions:

(A) Evaluate and improve the design, drawings specifications or quality of services rendered by a design professional;

(B) evaluate the design, construction, procedures and results of improvements to real property based upon services rendered by a design professional during or after completion of such improvements; or

(C) prepare an internal lessons learned review of any project or services rendered for the purpose of improving the quality of services rendered by a design professional.

(11) “Peer reviewer” or “peer review committee” means an individual design professional or a committee of design professionals retained, employed, designated or appointed by:

(A) A state, county or local society of design professionals; or

(B) the board of directors, chief executive officer, quality control director, or employed design professional of a business entity authorized pursuant to K.S.A. 74-7036, and amendments thereto, to practice one or more of the technical professions specified in paragraph (2).

(b) (1) Except as provided by K.S.A. 60-437, and amendments thereto, and by subsections (c) and (d), the reports, statements, memoranda, proceedings, findings and other records submitted to or generated by any peer review committee or peer reviewer shall be privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible in evidence in any judicial or administrative proceeding. Information contained

in such records shall not be discoverable or admissible at trial in the form of testimony by an individual who participated in the peer review process.

(2) The design professional who retains, employs, designates or appoints the peer reviewer or peer review committee is the holder of the privilege established by this section. This privilege may be claimed by such design professional and shall not be waived as a result of any disclosure by a peer reviewer or peer review committee.

(c) (1) Subsection (b) shall not apply to proceedings by the board in which a design professional contests the revocation, denial, restriction or termination of the license, registration, certification or other authorization to practice of the design professional. In any disciplinary proceeding conducted by the board in which admission of any peer review report, record or testimony is proposed by the licensee, the board shall hold the hearing in closed session when any such report, record or testimony is disclosed. Unless otherwise provided by law, in a disciplinary proceeding involving a design professional, the board may close only that portion of the hearing in which disclosure of a report or record privileged under this section is proposed. In closing a portion of a hearing as provided by this section, the presiding officer may exclude any person from the hearing location except the licensee, the licensee's attorney, the agency's attorney, the witness, the court reporter and appropriate staff support for either counsel.

(2) Upon motion of the design professional who is subject to the proceeding, a district court or the board shall make the portions of the agency record in which such report or record is disclosed subject to a protective order prohibiting further disclosure of such report or record.

(3) Such report or record shall not be subject to discovery, subpoena or other means of legal compulsion for its release to any person or entity. No person in attendance at a closed portion of a disciplinary proceeding shall at a subsequent civil, criminal or administrative hearing, be required to testify regarding the existence or content of a report or record privileged under this section which was disclosed in a closed portion of a hearing, nor shall such testimony be admitted into evidence in any subsequent civil, criminal or administrative hearing.

(4) In conducting a disciplinary proceeding, the board may review peer review committee process, records, testimony or reports but must prove its findings with independently obtained testimony or records which shall be presented as part of the disciplinary proceeding in open meeting of the board. Peer review committee process, records, testimony or reports received by the board shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in evidence in any judicial or administrative proceeding other than a disciplinary proceeding by the board.

(5) Offering such testimony or records in an open public hearing shall

not be deemed a waiver of the peer review privilege relating to any peer review committee testimony, records or report.

(d) Nothing in this section shall limit the authority, which may otherwise be provided by law, of the board to impose disciplinary action pursuant to K.S.A. 74-7026, and amendments thereto, against a design professional.

(e) (1) A peer review committee or peer reviewer may report to and discuss its activities, information and findings to other peer review committees or peer reviewers or to the design professional who retains, employs, designates or appoints the peer reviewer or peer review committee and to any officer, director or quality control director thereof without waiver of the privilege provided by subsection (b) and the records of all such peer review committees or peer reviewers relating to such report shall be privileged as provided by subsection (b).

(2) Each peer reviewer and member of a peer review committee shall be immune from civil liability for such acts so long as the acts are performed in good faith, without malice, and are reasonably related to the scope of inquiry of the peer review process. The immunity in this subsection is intended to cover only outside peer reviews by a third-party design professional who:

(A) Is not an employee, coworker, or partner of the design professional whose design is being peer reviewed; and

(B) has no other role in the project besides performing the peer review.

(f) No provision of this act shall be construed to supersede or conflict with the authority of the board of technical professions pursuant to K.S.A. 74-7001 et seq., and amendments thereto.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 12, 2014.

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