

STATE OF KANSAS

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**2015 SESSION LAWS  
OF KANSAS  
VOL. 1**

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

PASSED DURING THE 2015 REGULAR SESSION OF THE  
LEGISLATURE OF THE STATE OF KANSAS

Date of Publication of this Volume  
July 1, 2015

## 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 2015 regular session of the Legislature of the State of Kansas, begun on the 12th day of January, A.D. 2015, and concluded on the 26th day of June, A.D. 2015; 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. 2015, except when otherwise provided.

Given under my hand and seal this 1st day of July, A.D. 2015.

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 The bill index, subject index and list of statutes repealed or amended will assist you in locating bills of interest.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:

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## 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>Ken Selzer</b> .....	Leawood .....	Rep.

### STATE BOARD OF EDUCATION

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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, 2021
<b>Jerry Moran</b> , Hays .....	Republican	Term expires Jan. 3, 2017

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(Terms expire January 3, 2017)

<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.

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## 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 Ct., Louisburg 66053 .....	Rep.	37
<b>Bowers, Elaine S.</b> , 1326 N. 150th Rd., 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> , 1130 N. Parkwood 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, Jacob</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> , P.O. Box 424, 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 II</b> , 1309 N. High St., Wichita 67203 .....	Rep.	25
<b>Olson, Rob</b> , 15944 S. Clairborn 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 R.</b> , 2209 Grandview Dr. East, Garden City 67846 .....	Rep.	39
<b>Pyle, Dennis D.</b> , 2979 Kingfisher Rd., Hiawatha 66434 .....	Rep.	1
<b>Schmidt, Vicki</b> , 5906 S.W. 43rd Ct., Topeka 66610 .....	Rep.	20
<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 St., Wichita 67230 .....	Rep.	30
<b>Wilborn, Richard E. (Rick)</b> , 1504 Heritage Pl., McPherson 67460 .....	Rep.	35
<b>Wolf, Kay</b> , 8339 Roe Ave., 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 S.</b> , 2370 S. Southeast Blvd., Wichita 67216 .....	Rep.	98
<b>Ballard, Barbara W.</b> , 1532 Alvarmar Dr., Lawrence 66047 .....	Dem.	44
<b>Barker, John E.</b> , 103 Wassinger Ave., Abilene 67410 .....	Rep.	70
<b>Barton, Tony</b> , 1402 Franklin St., Leavenworth 66048 .....	Rep.	41
<b>Becker, Steven R.</b> , 11309 E. 69th Ave., Buhler 67522 .....	Rep.	104
<b>Billinger, Richard (Rick)</b> , 310 Acacia, Goodland 67735 .....	Rep.	120
<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</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 St., Wichita 67203 .....	Dem.	92
<b>Carpenter, Blake</b> , 2425 N. Newberry, Apt. 3202, Derby 67037 .....	Rep.	81
<b>Carpenter, Will</b> , 6965 S.W. 18th St., El Dorado 67042 .....	Rep.	75
<b>Claeys, J.R.</b> , 2356 Montclair Dr., Salina 67401 .....	Rep.	69
<b>Clark, Lonnie</b> , 824 B S. Madison, Junction City 66441 .....	Rep.	65
<b>Clayton, Stephanie</b> , 9825 Woodson Dr., Overland Park 66207 .....	Rep.	19
<b>Concannon, Susan</b> , 921 N. Mill St., Beloit 67420 .....	Rep.	107
<b>Corbet, Ken</b> , 10351 S.W. 61st St., Topeka 66610 .....	Rep.	54
<b>Couture-Lovelady, Travis</b> , 504 E. 11th, Ellis 67637 .....	Rep.	110
<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>DeGraaf, Pete</b> , 1545 E. 119th St., 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 O.</b> , 14715 Timber Ln., Bonner Springs 66012 .....	Rep.	38
<b>Edmonds, John</b> , P.O. Box 1816, Great Bend 67530 .....	Rep.	112
<b>Esau, Keith</b> , 11702 S. Winchester St., Olathe 66061 .....	Rep.	14
<b>Estes, Bud</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>Francis, Shannon</b> , 1501 Tucker Ct., Liberal 67901 .....	Rep.	125
<b>Frownfelter, Stan</b> , 5225 Crest Dr., Kansas City 66106 .....	Dem.	37
<b>Gallagher, Linda</b> , 7804 Monrovia St., Lenexa 66216 .....	Rep.	23
<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 St., Perry 66073 .....	Rep.	47
<b>Grosserode, Amanda</b> , 12601 W. 99th St., Lenexa 66215 .....	Rep.	16

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<b>Hawkins, Daniel R.</b> , 9406 Harvest Ln., Wichita 67212 .....	Rep.	100
<b>Hedke, Dennis E.</b> , 1669 N. Sagebrush St., Wichita 67230 .....	Rep.	99
<b>Hemsley, Lane</b> , 2909 S.W. 33rd Cr., Topeka 66614 .....	Rep.	56
<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>Highberger, Dennis (Boog)</b> , 1024 New York St., Lawrence 66044 .....	Dem.	46
<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 St., 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 A.</b> , 4902 Looman St., Wichita 67220 .....	Dem.	89
<b>Huebert, Steve</b> , 619 N. Birch, Valley Center 67147 .....	Rep.	90
<b>Hutchins, Becky</b> , 407 New York Ave., Holton 66436 .....	Rep.	61
<b>Hutton, Mark</b> , 7118 Clearmeadow Ct., Wichita 67205 .....	Rep.	105
<b>Jennings, Russ</b> , 515 Pleasantview, Lakin 67860 .....	Rep.	122
<b>Johnson, Steven C.</b> , 10197 S. Hopkins Rd., Assaria 67416 .....	Rep.	108
<b>Jones, Dick</b> , 4231 Marlboro Rd., Topeka 66610 .....	Rep.	52
<b>Jones, Kevin</b> , 416 E. 7th St., Wellsville 66092 .....	Rep.	5
<b>Kahrs, Mark</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 St., Independence 67301 .....	Rep.	11
<b>Kiegerl, S. Mike</b> , 2350 Golf Course Rd., Olathe 66061 .....	Rep.	121
<b>Kleeb, Marvin G.</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>*Lewis, Greg</b> , 910 N.E. 30th Ave., St. John 67576 .....	Rep.	113
<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 J. Sr.</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 A.</b> , 11911 W. 143rd Terr., Olathe 66062 .....	Rep.	8
<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, Leslie G.</b> , 1401 W. Dallas, Wichita 67217 .....	Rep.	97
<b>Ousley, Jarrod</b> , 6800 Farley, Merriam 66203 .....	Dem.	24
<b>Patton, Fred C.</b> , 339 N.E. 46th, Topeka 66617 .....	Rep.	50
<b>Pauls, Jan</b> , 101 E. 11th Ave., Hutchinson 67501 .....	Rep.	102
<b>Peck, Virgil Jr.</b> , P.O. Box 277, Tyro 67364 .....	Rep.	12
<b>Phillips, Tom</b> , 1530 Barrington Dr., Manhattan 66503 .....	Rep.	67
<b>Powell, Randy</b> , 14481 W. 122nd St., Olathe 66062 .....	Rep.	30
<b>Proehl, Rich</b> , 510 Pine Ridge Rd., Parsons 67357 .....	Rep.	7

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<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 A.</b> , 4124 Brookridge Dr., Fairway 66205 .....	Rep.	25
<b>Rubin, John</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, Ronald W. Sr.</b> , 503 N. Cedar St., Meade 67864 .....	Rep.	115
<b>Sawyer, Tom</b> , 1041 S. Elizabeth St., Wichita 67213 .....	Dem.	95
<b>Scapa, Joseph Brian</b> , 2209 S. White Cliff Ln., Wichita 67207 .....	Rep.	88
<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>Smith, Chuck</b> , 2112 W. 4th, Pittsburg 66762 .....	Rep.	3
<b>Suellentrop, Gene M.</b> , 6813 W. Northwind Circle, Wichita 67205 .....	Rep.	91
<b>Sutton, William (Bill)</b> , 301 W. Westhoff Pl., Gardner 66030 .....	Rep.	43
<b>Swanson, Susie</b> , 1422 5th St., Clay Center 67432 .....	Rep.	64
<b>Thimesch, Jack</b> , 234 N. Henderson, Cunningham 67035 .....	Rep.	114
<b>Thompson, Kent L.</b> , 1816 2800 St., LaHarpe 66751 .....	Rep.	9
<b>Tietze, Annie</b> , 329 S.W. Yorkshire Rd., Topeka 66606 .....	Dem.	53
<b>Todd, James Eric</b> , 9812 W. 118th St., Overland Park 66210 .....	Rep.	29
<b>Trimmer, Ed</b> , 1402 E. 9th Ave., 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> , 3528 192nd St., Bunker Hill 67626 .....	Rep.	109
<b>Whipple, Brandon</b> , 2925 S. Walnut, Wichita 67217 .....	Dem.	96
<b>Whitmer, John R.</b> , 12905 W. Red Rock, Wichita 67235 .....	Rep.	93
<b>Williams, Kristey S.</b> , 506 Stone Lake Ct., Augusta 67010 .....	Rep.	77
<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 St., Kansas City 66109 .....	Dem.	36

\*Succeeds J. Basil Dannebohm (resigned February 24, 2015), effective March 23, 2015.

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**Susan Wagle** ..... President  
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**Jene Vickrey** ..... Majority Leader  
**Tom Burroughs** ..... Minority Leader  
**Susan W. Kannarr** ..... Chief Clerk  
**Foster Chisholm** ..... Sergeant at Arms

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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: **Tom Burroughs**, Kansas City

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**Julie Pennington**, Financial Compliance Audit Manager  
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**Amy Deckard**, Assistant Director for Information Management

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

# 2015 SESSION LAWS OF KANSAS

## CHAPTER 1

House Substitute for SENATE BILL No. 4  
(Amended by Chapters 4, 100 and 104)

TO	SEC.	TO	SEC.
Abstracters' board of examiners	2	Highway patrol, Kansas	47
Accountancy, board of	3	Judicial branch	28
Adjutant general	45	Judicial council	27
Administration, department of	31	Kansas state university extension systems and agriculture research programs	42
Aging and disability services, Kansas department for	40	Labor, department of	36
Agriculture, Kansas department of	51	Legislative coordinating council	21
Attorney general	24	Legislature	22
Attorney general—Kansas bureau of investigation	48	Lottery, Kansas	34
Bank commissioner, state	4	Mortuary arts, state board of	11
Barbering, Kansas board of	5	Nursing, board of	13
Behavioral sciences regulatory board	6	Optometry, board of examiners in	14
Children and families, Kansas department for	41	Peace officers' standards and training, Kansas commission on	50
Citizens' utility ratepayer board	30	Pharmacy, state board of	15
Commerce, department of	35	Post audit, division of	23
Corrections, department of	44	Public employees retirement system, Kansas	29
Cosmetology, Kansas board of	8	Real estate appraisal board	16
Credit unions, state department of	9	Real estate commission, Kansas	17
Dental board, Kansas	10	Regents, state board of	43
Emergency medical services board	49	Revenue, department of	33
Fire marshal, state	46	Securities commissioner of Kansas, office of the	18
Governmental ethics commission	20	State treasurer	25
Healing arts, state board of	7	Tax appeals, state board of	32
Health and environment, department of— division of environment	39	Technical professions, state board of	19
Health and environment, department of—division of health care finance	38	Transportation, department of	53
Health care stabilization fund board of governors	26	Veterans affairs office, Kansas commission on	37
Hearing instruments, Kansas board of examiners in the fitting and dispensing of	12	Wildlife, parks and tourism, Kansas department of	52

AN ACT making and concerning appropriations for fiscal years ending June 30, 2015, and June 30, 2016, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2014 Supp. 72-8814, 74-4914d, 74-4920 and 74-50,107 and repealing the existing sections.

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

Section 1. (a) For the fiscal years ending June 30, 2015, and June 30, 2016, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, capital improvement projects, fees, re-

ceipts, disbursements, procedures and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

(b) The agencies named in this act are hereby authorized to initiate and complete the capital improvement projects specified and authorized by this act or for which appropriations are made by this act, subject to the restrictions and limitations imposed by this act.

(c) This act shall not be subject to the provisions of K.S.A. 75-6702(a), and amendments thereto.

(d) The appropriations made by this act shall not be subject to the provisions of K.S.A. 46-155, and amendments thereto.

Sec. 2.

**ABSTRACTERS' BOARD OF EXAMINERS**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by section 57(a) of chapter 136 of the 2013 Session Laws of Kansas on the abstracters' fee fund of the abstracters' board of examiners is hereby increased from \$21,471 to \$22,460.

Sec. 3.

**BOARD OF ACCOUNTANCY**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the board of accountancy fee fund of the board of accountancy is hereby decreased from \$355,634 to \$353,821.

Sec. 4.

**STATE BANK COMMISSIONER**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the bank commissioner fee fund of the state bank commissioner is hereby decreased from \$11,277,961 to \$10,553,454.

Sec. 5.

**KANSAS BOARD OF BARBERING**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the board of barbering fee fund of the Kansas board of barbering is hereby decreased from \$153,911 to \$152,864.

Sec. 6.

**BEHAVIORAL SCIENCES REGULATORY BOARD**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the behavioral sciences regulatory board fee fund of the behavioral sci-

ences regulatory board is hereby decreased from \$693,841 to \$688,923.

Sec. 7.

**STATE BOARD OF HEALING ARTS**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the healing arts fee fund of the state board of healing arts is hereby decreased from \$4,394,530 to \$4,366,207.

Sec. 8.

**KANSAS STATE BOARD OF COSMETOLOGY**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the cosmetology fee fund of the Kansas state board of cosmetology is hereby decreased from \$937,055 to \$931,281.

Sec. 9.

**STATE DEPARTMENT OF CREDIT UNIONS**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the credit union fee fund of the state department of credit unions is hereby decreased from \$1,129,939 to \$1,121,688.

Sec. 10.

**KANSAS DENTAL BOARD**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the dental board fee fund of the Kansas dental board is hereby decreased from \$391,943 to \$390,203.

Sec. 11.

**STATE BOARD OF MORTUARY ARTS**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the mortuary arts fee fund of the state board of mortuary arts is hereby decreased from \$288,647 to \$285,756.

Sec. 12.

**KANSAS BOARD OF EXAMINERS IN THE FITTING  
AND DISPENSING OF HEARING INSTRUMENTS**

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on

the hearing instrument board fee fund of the Kansas board of examiners in the fitting and dispensing of hearing instruments is hereby decreased from \$35,086 to \$28,627.

Sec. 13.

#### BOARD OF NURSING

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the board of nursing fee fund of the board of nursing is hereby decreased from \$2,606,698 to \$2,590,604.

Sec. 14.

#### BOARD OF EXAMINERS IN OPTOMETRY

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the optometry fee fund of the board of examiners in optometry is hereby decreased from \$85,020 to \$84,592.

Sec. 15.

#### STATE BOARD OF PHARMACY

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the state board of pharmacy fee fund of the state board of pharmacy is hereby decreased from \$1,058,023 to \$1,052,195.

(b) No expenditures shall be made from the state board of pharmacy litigation fund for the fiscal year ending June 30, 2015, except upon the approval of the director of the budget acting after ascertaining that: (1) Unforeseeable occurrence or unascertainable effects of a foreseeable occurrence characterize the need for the requested expenditure, and delay until the next legislative session on the requested action would be contrary to clause (3) of this proviso; (2) the requested expenditure is not one that was rejected in the next preceding session of the legislature and is not contrary to known legislative policy; and (3) the requested action will assist the above agency in attaining an objective or goal which bears a valid relationship to powers and functions of the above agency.

(c) During the fiscal year ending June 30, 2015, the executive director of the state board of pharmacy, with the approval of the director of the budget, may transfer moneys from the state board of pharmacy fee fund to the state board of pharmacy litigation fund of the state board of pharmacy: *Provided*, That the aggregate of such transfers for the fiscal year ending June 30, 2015, shall not exceed \$50,000: *Provided further*, That the executive director of the state board of pharmacy shall certify each such transfer of moneys to the director of accounts and reports and shall

transmit a copy of each such certification to the director of the budget and the director of legislative research.

Sec. 16.

#### REAL ESTATE APPRAISAL BOARD

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the appraiser fee fund of the real estate appraisal board is hereby decreased from \$248,267 to \$245,996.

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council on the appraisal management companies fee fund of the real estate appraisal board is hereby increased from \$70,562 to \$71,371.

Sec. 17.

#### KANSAS REAL ESTATE COMMISSION

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the real estate fee fund of the Kansas real estate commission is hereby decreased from \$972,851 to \$966,716.

Sec. 18.

#### OFFICE OF THE SECURITIES COMMISSIONER OF KANSAS

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the securities act fee fund of the office of the securities commissioner of Kansas is hereby decreased from \$2,779,606 to \$2,754,452.

Sec. 19.

#### STATE BOARD OF TECHNICAL PROFESSIONS

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the technical professions fee fund of the state board of technical professions is hereby decreased from \$635,035 to \$632,327.

Sec. 20.

#### GOVERNMENTAL ETHICS COMMISSION

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas for the governmental ethics commission fee fund of the governmental ethics commission is hereby decreased from \$253,770 to \$251,498.

Sec. 21.

LEGISLATIVE COORDINATING COUNCIL

(a) On the effective date of this act, of the \$564,782 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 80(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the legislative coordinating council–operations account, the sum of \$149,834 is hereby lapsed.

(b) On the effective date of this act, of the \$3,692,051 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 80(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the legislative research department–operations account, the sum of \$527,084 is hereby lapsed.

(c) On the effective date of this act, of the \$3,177,613 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 80(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the office of revisor of statutes–operations account, the sum of \$362,239 is hereby lapsed.

Sec. 22.

LEGISLATURE

(a) On the effective date of this act, of the \$12,995,382 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 82(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the operations (including official hospitality) account, the sum of \$1,573,845 is hereby lapsed.

(b) On the effective date of this act, of the \$4,512,330 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 82(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the legislative information system account, the sum of \$152,097 is hereby lapsed.

Sec. 23.

DIVISION OF POST AUDIT

(a) On the effective date of this act, of the \$2,209,038 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 84(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the operations (including legislative post audit committee) account, the sum of \$315,669 is hereby lapsed.

Sec. 24.

ATTORNEY GENERAL

(a) 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:

SSA fraud prevention federal fund..... No limit

(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 2014 Supp. 21-5933, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$1,000,000 from the medicaid fraud prosecution revolving fund of the attorney general to the state general fund.

Sec. 25.

#### STATE TREASURER

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the state treasurer operating fund of the state treasurer is hereby decreased from \$1,569,802 to \$1,561,838.

(b) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of the uniform unclaimed property act, K.S.A. 58-3934 et seq., and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$500,000 from the state treasurer operating fund of the state treasurer to the state general fund.

Sec. 26.

#### HEALTH CARE STABILIZATION FUND BOARD OF GOVERNORS

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the operating expenditures account of the health care stabilization fund is hereby decreased from \$1,829,215 to \$1,816,392.

Sec. 27.

#### JUDICIAL COUNCIL

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the judicial council fund of the judicial council is hereby decreased from \$182,278 to \$181,411.

Sec. 28.

#### JUDICIAL BRANCH

(a) On the effective date of this act, of the \$2,000,000 appropriated for the above agency, for the fiscal year ending June 30, 2015, by section 1(a) of chapter 82 of the 2014 Session Laws of Kansas from the state general fund in the judiciary operations account, the sum of \$673,754 is hereby lapsed.

(b) During the fiscal year ending June 30, 2015, the chief justice of the Kansas supreme court may transfer any funds from the electronic filing and management fund to the judicial branch docket fee fund. The

chief justice shall certify each such transfer to the director of accounts and reports and shall transmit a copy of each such certification to the director of legislative research.

Sec. 29.

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

(a) On the effective date of this act, the expenditure limitation established for the above agency for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the agency operations account of the expense reserve of the Kansas public employees retirement system is hereby decreased from \$12,088,362 to \$12,017,048.

(b) Notwithstanding the provisions of K.S.A. 38-2101, and amendments thereto, or any other statute, the director of accounts and reports: (1) On the effective date of this act, shall transfer \$7,000,000 from the Kansas endowment for youth fund to the state general fund; and (2) on April 20, 2015, or as soon thereafter as moneys are available, shall transfer \$5,000,000 from the Kansas endowment for youth fund to the state general fund.

Sec. 30.

CITIZENS' UTILITY RATEPAYER BOARD

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the utility regulatory fee fund of the citizens' utility ratepayer board is hereby decreased from \$919,678 to \$914,807.

Sec. 31.

DEPARTMENT OF ADMINISTRATION

(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 ..... \$2,498,714

(b) On the effective date of this act, of the \$600,000 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 112(c) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the public broadcasting council grants account, the sum of \$12,000 is hereby lapsed.

(c) (1) On or before June 30, 2015, the secretary of administration (A) shall determine the amount of moneys appropriated in each account of the state general fund appropriated for fiscal year 2015 for the cabinet agency that are not required to be expended or encumbered for an information technology project for the fiscal year ending June 30, 2015, and (B) shall certify each such amount to the director of the budget, accompanied by such other information with respect thereto as may be prescribed by the director of the budget: *Provided*, That, on or before June 30, 2015, the director of the budget shall certify each amount appropri-

ated from the state general fund, which is certified by the secretary of administration pursuant to this section, to the director of accounts and reports and, upon receipt of such certification, the amount so certified is hereby lapsed: *Provided further*, That, at the same time as the director of the budget transmits each such certification to the director of accounts and reports, the director of the budget shall transmit a copy of such certification to the director of legislative research.

(2) As used in this subsection, “cabinet agency” means (A) the department of administration, (B) the department of revenue, (C) the department of commerce, (D) the department of labor, (E) the department of health and environment, (F) the Kansas department for aging and disability services, (G) the Kansas department for children and families, (H) the department of corrections, (I) the adjutant general, (J) the Kansas highway patrol, (K) the Kansas department of agriculture, (L) the Kansas department of wildlife, parks and tourism, and (M) the department of transportation.

Sec. 32.

#### STATE BOARD OF TAX APPEALS

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the BOTA filing fee fund of the state board of tax appeals is hereby decreased from \$1,008,421 to \$1,000,762.

Sec. 33.

#### DEPARTMENT OF REVENUE

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the division of vehicles operating fund of the department of revenue is hereby decreased from \$48,116,402 to \$46,766,956.

(b) 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 of any other statute, the director of accounts and reports shall transfer \$1,219,827 from the division of vehicles operating fund of the department of revenue to the state general fund.

(c) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 75-5159, and amendments thereto, or of any other statute, the director of accounts and reports shall transfer \$4,000,000 from the division of vehicles modernization fund of the department of revenue to the state general fund.

Sec. 34.

#### KANSAS LOTTERY

(a) On the effective date of this act, the aggregate of the amounts authorized by section 120(b) of chapter 136 of the 2013 Session Laws of

Kansas to be transferred from the lottery operating fund to the state gaming revenues fund during the fiscal year ending June 30, 2015, is hereby increased from \$72,300,000 to \$72,500,000.

Sec. 35.

#### DEPARTMENT OF COMMERCE

(a) On the effective date of this act, of the \$9,162,358 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 124(b) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the operating grant (including official hospitality) account, the sum of \$302,518 is hereby lapsed.

(b) On the effective date of this act, of the \$253,139 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 124(b) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the older Kansans employment program account, the sum of \$118 is hereby lapsed.

(c) On the effective date of this act, of the \$1,831,012 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 124(b) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the rural opportunity zones program account, the sum of \$2,599 is hereby lapsed.

(d) On the effective date of this act, of the \$8,100 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 124(b) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the senior community service employment program account, the sum of \$49 is hereby lapsed.

(e) On the effective date of this act, of the \$100,000 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 124(b) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the strong military bases program account, the sum of \$233 is hereby lapsed.

(f) On the effective date of this act, of the \$186,205 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 124(b) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the governor's council of economic advisors account, the sum of \$244 is hereby lapsed.

(g) On the effective date of this act, of the \$1,568,648 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 124(b) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the innovation growth program account, the sum of \$140,173 is hereby lapsed.

(h) On the effective date of this act, of the \$200,000 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 124(b) of chapter 136 of the 2013 Session Laws of Kansas from the state

economic development initiatives fund in the creative arts industries commission account, the sum of \$851 is hereby lapsed.

(i) On the effective date of this act, of the \$450,000 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 124(b) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the employment incentive for persons with a disability account, the sum of \$108 is hereby lapsed.

(j) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,123,083 from the state economic development initiatives fund to the state general fund.

Sec. 36.

DEPARTMENT OF LABOR

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the workmen's compensation fee fund of the department of labor is hereby decreased from \$12,476,732 to \$12,452,526.

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the federal indirect cost offset fund of the department of labor is hereby decreased from \$97,688 to \$96,755.

Sec. 37.

KANSAS COMMISSION ON VETERANS AFFAIRS OFFICE

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas for the soldiers' home fee fund of the Kansas commission on veterans affairs office is hereby decreased from \$1,698,502 to \$1,651,720.

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas for the veterans' home fee fund of the Kansas commission on veterans affairs office is hereby decreased from \$2,952,558 to \$2,927,328.

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas for the federal long term care per diem fund of the Kansas commission on veterans affairs office is hereby increased from \$5,998,047 to \$6,128,655.

(d) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas for

the federal domiciliary per diem fund of the Kansas commission on veterans affairs office is hereby decreased from \$1,705,623 to \$1,262,704.

(e) On the effective date of this act, any unencumbered balance in each of the following capital improvement accounts of the state institutions building fund is hereby lapsed: Facilities conservation–soldiers home, repair and rehabilitation–veterans home–federal match.

(f) On the effective date of this act, of the \$250,000 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 221(a) of chapter 136 of the 2013 Session Laws of Kansas from the state institutions building fund in the veterans’ home rehabilitation and repair projects account, the sum of \$213,548 is hereby lapsed.

(g) On the effective date of this act, of the \$382,253 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 221(a) of chapter 136 of the 2013 Session Laws of Kansas from the state institutions building fund in the soldiers’ home rehabilitation and repair projects account, the sum of \$139,436 is hereby lapsed.

(h) On the effective date of this act, of the \$400,000 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 65(j) of chapter 142 of the 2014 Session Laws of Kansas from the state institutions building fund in the Lincoln hall remodel account, the sum of \$36,040 is hereby lapsed.

(i) On the effective date of this act, of the \$220,000 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 65(j) of chapter 142 of the 2014 Session Laws of Kansas from the state institutions building fund in the veterans home Timmerman and Triplett hall-way sprinkler system account, the sum of \$131,000 is hereby lapsed.

(j) On the effective date of this act, of the amount reappropriated for the above agency for the fiscal year ending June 30, 2015, by section 291(b) of chapter 136 of the 2013 Session Laws of Kansas from the state institutions building fund in the veterans’ home Donlon hall sprinkler system account, the sum of \$150,000 is hereby lapsed.

(k) On the effective date of this act, of the \$165,000 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 65(j) of chapter 142 of the 2014 Session Laws of Kansas from the state institutions building fund in the veterans’ home Donlon hall roof replacement account, the sum of \$112,992 is hereby lapsed.

Sec. 38.

DEPARTMENT OF HEALTH AND ENVIRONMENT —  
DIVISION OF HEALTH CARE FINANCE

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Other medical assistance ..... \$24,159,881

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council

by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the preventative healthcare program fund of the department of health and environment — division of health care finance is hereby increased from \$1,388,559 to \$1,486,741.

(c) On the effective date of this act, the expenditure limitation for salaries and wages and other operating expenditures established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the cafeteria benefits fund of the department of health and environment — division of health care finance is hereby increased from \$2,439,490 to \$2,518,244.

(d) On the effective date of this act, the expenditure limitation for salaries and wages and other operating expenditures established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the state workers compensation self-insurance fund of the department of health and environment — division of health care finance is hereby increased from \$3,846,601 to \$4,669,148.

(e) On the effective date of this act, the expenditure limitation for salaries and wages and other operating expenditures established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the dependent care assistance program fund of the department of health and environment — division of health care finance is hereby decreased from \$690,913 to \$684,360.

(f) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$55,000,000 from the medical programs fee fund of the department of health and environment — division of health care finance to the state general fund.

Sec. 39.

DEPARTMENT OF HEALTH AND ENVIRONMENT —  
DIVISION OF ENVIRONMENT

(a) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 65-34,131, and amendments thereto, or of any other statute, the director of accounts and reports shall transfer \$3,000,000 from the UST redevelopment fund of the department of health and environment — division of environment to the state general fund.

(b) On the effective date of this act, of the \$691,114 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 136(c) of chapter 136 of the 2013 Session Laws of Kansas from the state water plan fund in the contamination remediation account, the sum of \$1,745 is hereby lapsed.

(c) On the effective date of this act, of the \$294,131 appropriated for

the above agency for the fiscal year ending June 30, 2015, by section 136(c) of chapter 136 of the 2013 Session Laws of Kansas from the state water plan fund in the nonpoint source program, the sum of \$3,067 is hereby lapsed.

(d) On the effective date of this act, of the \$149,731 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 136(c) of chapter 136 of the 2013 Session Laws of Kansas from the state water plan fund in the TMDL initiatives and use attainability account, the sum of \$1,052 is hereby lapsed.

Sec. 40.

KANSAS DEPARTMENT FOR AGING AND DISABILITY SERVICES

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

LTC — medicaid assistance — NF .....	\$8,293,407
LTC — medicaid assistance — PACE.....	\$74,632
Other medical assistance .....	\$6,329,716

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by section 138(b) of chapter 136 of the 2013 Session Laws of Kansas on the Kansas neurological institute fee fund of the Kansas department for aging and disability services is hereby decreased from \$1,355,537 to \$1,343,443.

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by section 138(b) of chapter 136 of the 2013 Session Laws of Kansas on the Larned state hospital fee fund of the Kansas department for aging and disability services is hereby decreased from \$4,466,618 to \$4,462,311.

(d) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by section 71(r) of chapter 142 of the 2014 Session Laws of Kansas on the Osawatomie state hospital fee fund of the Kansas department for aging and disability services is hereby decreased from \$8,755,323 to \$8,681,367.

(e) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by section 138(b) of chapter 136 of the 2013 Session Laws of Kansas on the title XIX fund of the Kansas department for aging and disability services is hereby decreased from \$46,861,094 to \$46,542,289.

(f) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$3,000,000 from the DADS social welfare fund of the Kansas department for aging and disability services to the state general fund.

(g) 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 of any other statute, the director of accounts and

reports shall transfer \$1,200,000 from the problem gambling and addictions grant fund of the Kansas department for aging and disability services to the state general fund.

(h) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by section 71(s) of chapter 142 of the 2014 Session Laws of Kansas for the DADS social welfare fund of the Kansas department for aging and disability services is hereby decreased from \$12,062,390 to \$7,212,390.

Sec. 41.

KANSAS DEPARTMENT FOR CHILDREN AND FAMILIES

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Youth services aid and assistance ..... \$10,200,000

(b) On the effective date of this act, of the \$5,033,679 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 140(c) of chapter 136 of the 2013 Session Laws of Kansas from the children’s initiatives fund in the child care account, the sum of \$5,939 is hereby lapsed.

(c) On the effective date of this act, of the \$70,000 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 140(c) of chapter 136 of the 2013 Session Laws of Kansas from the children’s initiatives fund in the early head start account, the sum of \$70,000 is hereby lapsed.

(d) On the effective date of this act, of the \$18,179,179 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 140(c) of chapter 136 of the 2013 Session Laws of Kansas from the children’s initiatives fund in the early childhood block grant account, the sum of \$873 is hereby lapsed.

(e) On the effective date of this act, of the \$261,589 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 140(d) of chapter 136 of the 2013 Session Laws of Kansas from the Kansas endowment for youth fund in the children’s cabinet administration account, the sum of \$2,436 is hereby lapsed.

(f) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$500,000 from the children’s initiatives fund to the state general fund.

(g) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by section 73(b) of chapter 142 of the 2014 Session Laws of Kansas for the social welfare fund of the Kansas department for children and families is hereby increased from \$21,720,776 to \$21,770,884.

Sec. 42.

KANSAS STATE UNIVERSITY EXTENSION SYSTEMS  
AND AGRICULTURE RESEARCH PROGRAMS

(a) On the effective date of this act, of the \$299,686 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 158(c) of chapter 136 of the 2013 Session Laws of Kansas from the state economic development initiatives fund in the agricultural experiment stations account, the sum of \$401 is hereby lapsed.

Sec. 43.

STATE BOARD OF REGENTS

(a) There is hereby appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Tuition for technical education..... \$2,850,000

(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:

KanTRAIN federal fund..... No limit

Sec. 44.

DEPARTMENT OF CORRECTIONS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2015, the following:

Purchase of service..... \$133,011

(b) On the effective date of this act, of the \$4,140,675 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 247(b) of chapter 136 of the 2013 Session Laws of Kansas from the correctional institutions building fund in the capital improvements — rehabilitation and repair of correctional institutions account, the sum of \$444,077 is hereby lapsed.

(c) On the effective date of this act, of the \$126,325 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 247(b) of chapter 136 of the 2013 Session Laws of Kansas from the correctional institutions building fund in the debt service payment for the prison capacity expansion projects bond issue account, the sum of \$10,969 is hereby lapsed.

Sec. 45.

ADJUTANT GENERAL

(a) On the effective date of this act, of the amount reappropriated for the above agency for the fiscal year ending June 30, 2015, by section 176(a) of chapter 136 of the 2013 Session Laws of Kansas from the state general fund in the disaster relief account of the adjutant general, the sum of \$472,000 is hereby lapsed.

Sec. 46.

STATE FIRE MARSHAL

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the fire marshal fee fund of the state fire marshal is hereby decreased from \$3,459,366 to \$3,440,834.

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the hazardous material program fund of the state fire marshal is hereby decreased from \$347,137 to \$346,104.

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the state fire marshal liquefied petroleum gas fee fund of the state fire marshal is hereby decreased from \$151,378 to \$150,427.

Sec. 47.

KANSAS HIGHWAY PATROL

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the Kansas highway patrol operations fund of the Kansas highway patrol is hereby decreased from \$55,327,391 to \$53,944,333.

(b) In addition to the other purposes for which expenditures may be made from the vehicle identification number fee fund for fiscal year 2015, expenditures may be made by the above agency from the vehicle identification number fee fund for fiscal year 2015 for the following capital improvement project or projects, subject to the expenditure limitation prescribed thereof:

Training academy rehabilitation and repair..... No limit

*Provided*, That all expenditures from each such capital improvement account shall be in addition to any expenditure limitation imposed on the vehicle identification number fee fund for fiscal year 2015.

(c) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,103,044 from the Kansas highway patrol operations fund of the Kansas highway patrol to the state general fund.

Sec. 48.

ATTORNEY GENERAL — KANSAS

BUREAU OF INVESTIGATION

(a) On the effective date of this act, of the \$816,755 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 94(a) of chapter 142 of the 2014 Session Laws of Kansas from the state general

fund in the operating expenditures account, the sum of \$668,028 is hereby lapsed.

Sec. 49.

#### EMERGENCY MEDICAL SERVICES BOARD

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the emergency medical services operating fund of the emergency medical services board is hereby decreased from \$1,304,802 to \$1,296,676.

Sec. 50.

#### KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS AND TRAINING

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the Kansas commission on peace officers' standards and training fund of the Kansas commission on peace officers' standards and training is hereby decreased from \$587,715 to \$585,353.

Sec. 51.

#### KANSAS DEPARTMENT OF AGRICULTURE

(a) On the effective date of this act, of the \$447,573 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 190(c) of chapter 136 of the 2013 Session Laws of Kansas from the state water plan fund in the interstate water issues account, the sum of \$4,257 is hereby lapsed.

(b) On the effective date of this act, of the \$55,509 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 190(c) of chapter 136 of the 2013 Session Laws of Kansas from the state water plan fund in the water use account, the sum of \$1,307 is hereby lapsed.

(c) On the effective date of this act, of the \$622,396 appropriated for the above agency for the fiscal year ending June 30, 2015, by the state finance council by section 109(c) of chapter 142 of the 2014 Session Laws of Kansas from the state water plan fund in the basin management account, the sum of \$111,551 is hereby lapsed.

(d) On the effective date of this act, of the \$449,577 appropriated for the above agency for the fiscal year ending June 30, 2015, by section 190(c) of chapter 136 of the 2013 Session Laws of Kansas from the state water plan fund in the conservation reserve enhancement program account, the sum of \$1,059 is hereby lapsed.

(e) On the effective date of this act, of the \$573,311 appropriated for the above agency for the fiscal year ending June 30, 2015, by the state finance council by section 109(b) of chapter 142 of the 2014 Session Laws

of Kansas from the state economic development initiatives fund in the operating expenditures account, the sum of \$6,795 is hereby lapsed.

Sec. 52.

KANSAS DEPARTMENT OF WILDLIFE,  
PARKS AND TOURISM

(a) On the effective date of this act, of the amount appropriated for the above agency for the fiscal year ending June 30, 2015, by the state finance council by section 109(b) of chapter 142 of the 2014 Session Laws of Kansas from the state economic development initiatives fund in the SEDIF travel/tourism operating expense account, the sum of \$131,175 is hereby lapsed.

(b) On the effective date of this act, of the amount appropriated for the above agency for the fiscal year ending June 30, 2015, by the state finance council by section 109(b) of chapter 142 of the 2014 Session Laws of Kansas from the state economic development initiatives fund in the operating expenditures account, the sum of \$19,945 is hereby lapsed.

(c) On the effective date of this act, of the amount appropriated for the above agency for the fiscal year ending June 30, 2015, by the state finance council by section 109(b) of chapter 142 of the 2014 Session Laws of Kansas from the state economic development initiatives fund in the state parks operating expenditures account, the sum of \$505,874 is hereby lapsed.

(d) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the parks fee fund of the Kansas department of wildlife, parks and tourism is hereby increased from \$6,102,400 to \$6,570,990.

(e) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the wildlife fee fund of the Kansas department of wildlife, parks and tourism is hereby decreased from \$25,877,881 to \$25,798,724.

(f) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the boating fee fund of the Kansas department of wildlife, parks and tourism is hereby decreased from \$1,477,344 to \$1,470,796.

(g) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the department access roads fund of the Kansas department of wildlife, parks and tourism is hereby decreased from \$1,654,854 to \$1,648,076.

(h) 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 department access roads fund of the Kansas department of wildlife, parks and tourism to the state general fund.

(i) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$400,000 from the bridge maintenance fund of the Kansas department of wildlife, parks and tourism to the state general fund.

Sec. 53.

#### DEPARTMENT OF TRANSPORTATION

(a) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$158,479,087 from the state highway fund of the department of transportation to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state highway fund of the department of transportation to the state general fund as prescribed by law: *Provided further*, That, in addition to other purposes for which transfers and expenditures may be made from the state highway fund during fiscal year 2015 and notwithstanding the provisions of K.S.A. 68-416, and amendments thereto, or any other statute, transfers may be made from the state highway fund to the state general fund under this subsection during fiscal year 2015.

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2015, by the state finance council by section 109(e) of chapter 142 of the 2014 Session Laws of Kansas on the agency operations account of the state highway fund of the department of transportation is hereby decreased from \$259,780,987 to \$250,541,071.

(c) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$19,919 from the north central Kansas air passenger service support fund of the department of transportation to the state economic development initiatives fund.

(d) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$142,906 from the Kansas highway patrol operations fund of the Kansas highway patrol to the state highway fund of the department of transportation.

Sec. 54. K.S.A. 2014 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. 2014 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 *except as provided further*, 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 year ending June 30, 2014. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund.~~

(d) *During the fiscal year ending June 30, 2015:*

(1) *On February 20, 2015, the director of accounts and reports shall*

*transfer \$25,300,000 from the state general fund to the school district capital outlay state aid fund. The state board of education shall distribute such moneys to pay the proportionate share of the entitlements to each school district as determined under the provisions of subsection (b); and*

*(2) On June 20, 2015, the director of accounts and reports shall transfer the remaining amount of moneys to which the school districts are entitled to receive from the state general fund to the school district capital outlay state aid fund pursuant to the provisions of subsection (b). The state board of education shall distribute such moneys to pay the remaining proportionate share of the entitlement to each school district as determined under the provisions of subsection (b).*

*(e) 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)~~ *(f) 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. 55. K.S.A. 2014 Supp. 74-4914d is hereby amended to read as follows: 74-4914d. *(1) Any additional cost resulting from the normal retirement date and retirement before such normal retirement date for security officers as provided in K.S.A. 74-4914c, and amendments thereto, and disability benefits as provided in K.S.A. 74-4914e, and amendments thereto, shall be added to the employer rate of contribution for the department of corrections as otherwise determined under K.S.A. 74-4920, and amendments thereto, except that the employer rate of contribution for the department of corrections including any such additional cost added to such employer rate of contribution pursuant to this section shall in no event exceed the employer rate of contribution for the department of corrections for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which security officers contribute during the period: (a) For the fiscal year commencing in calendar years 2010 through 2012, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; (b) for the fiscal year commencing in calendar year 2013, an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (c) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 1% of the amount of the*

immediately preceding fiscal year; (d) for the fiscal year commencing in calendar year 2015, an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year; and (e) for the fiscal year commencing in calendar year 2016, and in each subsequent calendar year, an amount not to exceed more than 1.2% of the amount of the immediately preceding fiscal year, *without regard to the employer rate of contribution in subsection (2)*.

(2) *On and after the effective date of this act, notwithstanding the employer rate of contribution determined under K.S.A. 74-4920(1)(a), and amendments thereto, and subsection (1), the employer rate of contribution for employees covered by this section shall be 8.65% expressed as a percentage of compensation for payroll periods chargeable to the last six months of the fiscal year ending June 30, 2015.*

Sec. 56. K.S.A. 2014 Supp. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation and appraisal as provided for in ~~subsection (3)(a) of~~ K.S.A. 74-4908(3)(a), and amendments thereto, the board shall certify, on or before July 15 of each year, to the division of the budget in the case of the state and to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the system, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability as determined by the board. The board shall determine the actuarial cost method to be used in annual actuarial valuations, to determine the employer contribution rates that shall be certified by the board. Such certified rate of contribution, amortization methods and periods and actuarial cost method shall be based on the standards set forth in ~~subsection (3)(a) of~~ K.S.A. 74-4908(3)(a), and amendments thereto, and shall not be based on any other purpose outside of the needs of the system.

(b) (i) For employers affiliating on and after January 1, 1999, upon the basis of an annual actuarial valuation and appraisal of the system conducted in the manner provided for in K.S.A. 74-4908, and amendments thereto, the board shall certify, on or before July 15 of each year to each such employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such employer to pay all of the liabilities which shall accrue under the system from and after the entry date as determined by the board, upon recommendation of the actuary. Such rate shall be termed the employer's participating service contribution and shall be uniform for all participating employers. Such additional liability shall be amortized as determined by the board. For all participating employers described in this section, the board shall determine the actuarial cost method to be used in annual actuarial valu-

ations to determine the employer contribution rates that shall be certified by the board.

(ii) The board shall determine for each such employer separately an amount sufficient to amortize all liabilities for prior service costs which shall have accrued at the time of entry into the system. On the basis of such determination the board shall annually certify to each such employer separately an actuarially determined estimate of the rate of contribution which shall be required to be paid by that employer to pay all of the liabilities for such prior service costs. Such rate shall be termed the employer's prior service contribution.

(2) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services the sum required to satisfy the state's obligation under this act as certified by the board and shall present the same to the legislature for allowance and appropriation.

(3) Each other participating employer shall appropriate and pay to the system a sum sufficient to satisfy the obligation under this act as certified by the board.

(4) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which such contribution is made is paid from or from any other funds available to it for such purpose. Each political subdivision, other than an instrumentality of the state, which is by law authorized to levy taxes for other purposes, may levy annually at the time of its levy of taxes, a tax which may be in addition to all other taxes authorized by law for the purpose of making its contributions under this act and, in the case of cities and counties, to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, which tax, together with any other fund available, shall be sufficient to enable it to make such contribution. In lieu of levying the tax authorized in this subsection, any taxing subdivision may pay such costs from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102, and amendments thereto. Each participating employer which is not by law authorized to levy taxes as described above, but which prepares a budget for its expenses for the ensuing year and presents the same to a governing body which is authorized by law to levy taxes as described above, may include in its budget an amount sufficient to make its contributions under this act which may be in addition to all other taxes authorized by law. Such governing body to which the budget is submitted for approval, may levy a tax sufficient to allow the participating employer to make its contributions under this act, which tax, together with any other fund available, shall be sufficient to enable the participating employer to make the contributions required by this act.

(5) (a) The rate of contribution certified to a participating employer as provided in this section shall apply during the fiscal year of the partic-

ipating employer which begins in the second calendar year following the year of the actuarial valuation.

(b) (i) Except as specifically provided in this section, for fiscal years commencing in calendar year 1996 and in each subsequent calendar year, the rate of contribution certified to the state of Kansas shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than 0.2% of the amount of compensation upon which members contribute during the period.

(ii) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to the state of Kansas and to the participating employers under K.S.A. 74-4931, and amendments thereto, shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar years 2010 through 2012, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2013, an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (C) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (D) for the fiscal year commencing in calendar year 2015, an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year; and (E) for the fiscal year commencing in calendar year 2016, and in each subsequent calendar year, an amount not to exceed more than 1.2% of the amount of the immediately preceding fiscal year, *without regard to the rate of employer contribution in subsection (17)*.

(iii) Except as specifically provided in this section, for fiscal years commencing in calendar year 1997 and in each subsequent calendar year, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed such participating employer's contribution rate for the immediately preceding fiscal year by more than 0.15% of the amount of compensation upon which members contribute during the period.

(iv) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed the contribution rate for such employers for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar years 2010 through 2013, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than

0.9% of the amount of the immediately preceding fiscal year; (C) for the fiscal year commencing in calendar year 2015, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (D) for the fiscal year commencing in calendar year 2016, an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year; and (E) for the fiscal year commencing in calendar year 2017, and in each subsequent calendar year, an amount not to exceed more than 1.2% of the amount of the immediately preceding fiscal year.

(v) As part of the annual actuarial valuation, there shall be a separate employer rate of contribution calculated for the state of Kansas, a separate employer rate of contribution calculated for participating employers under K.S.A. 74-4931, and amendments thereto, a combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, and a separate employer rate of contribution calculated for all other participating employers.

(vi) There shall be a combined employer rate of contribution certified to the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto. There shall be a separate employer rate of contribution certified to all other participating employers.

(vii) If the combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, is greater than the separate employer rate of contribution for the state of Kansas, the difference in the two rates applied to the actual payroll of the state of Kansas for the applicable fiscal year shall be calculated. This amount shall be certified by the board for deposit as additional employer contributions to the retirement benefit accumulation reserve for the participating employers under K.S.A. 74-4931, and amendments thereto.

(6) The actuarial cost of any legislation enacted in the 1994 session of the Kansas legislature will be included in the June 30, 1994, actuarial valuation in determining contribution rates for participating employers.

(7) The actuarial cost of the provisions of K.S.A. 74-4950i, and amendments thereto, will be included in the June 30, 1998, actuarial valuation in determining contribution rates for participating employers. The actuarial accrued liability incurred for the provisions of K.S.A. 74-4950i, and amendments thereto, shall be amortized over 15 years.

(8) Except as otherwise provided by law, the actuarial cost of any legislation enacted by the Kansas legislature, except the actuarial cost of K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the employer contribution rates certified for the employer contribution rate in the fiscal year immediately following such enactment. Such actuarial cost shall be determined by the qualified actuary employed or retained by the system pursuant to K.S.A. 74-4908, and amendments thereto, and

reported to the system and the joint committee on pensions, investments and benefits.

(9) Notwithstanding the provisions of subsection (8), the actuarial cost of the provisions of K.S.A. 74-49,109 et seq., and amendments thereto, shall be first reflected in employer contribution rates effective with the first day of the first payroll period for the fiscal year 2005. The actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109 et seq., and amendments thereto, shall be amortized over 10 years.

(10) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2014 Supp. 74-49,114b, and amendments thereto, for retirants other than local retirants as described in subsection (11) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2007.

(11) The actuarial accrued liability incurred for the provisions of K.S.A. 2014 Supp. 74-49,114b, and amendments thereto, for the KPERS local group and retirants who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(12) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2014 Supp. 74-49,114c, and amendments thereto, for retirants other than local retirants as described in subsection (13) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2008.

(13) The actuarial accrued liability incurred for the provisions of K.S.A. 2014 Supp. 74-49,114c, and amendments thereto, for the KPERS local group and retirants who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(14) The board with the advice of the actuary may fix the contribution rates for participating employers joining the system after one year from the first entry date or for employers who exercise the option contained in K.S.A. 74-4912, and amendments thereto, at rates different from the rate fixed for employers joining within one year of the first entry date.

(15) Employer contributions shall in no way be limited by any other act which now or in the future establishes or limits the compensation of any member.

(16) Notwithstanding any provision of law to the contrary, each participating employer shall remit quarterly, or as the board may otherwise provide, all employee deductions and required employer contributions to the executive director for credit to the Kansas public employees retirement fund within three days after the end of the period covered by the remittance by electronic funds transfer. Remittances of such deductions and contributions received after such date are delinquent. Delinquent payments due under this subsection shall be subject to interest at the rate established for interest on judgments under ~~subsection (a) of K.S.A. 16-~~

204(a), and amendments thereto. At the request of the board, delinquent payments which are due or interest owed on such payments, or both, may be deducted from any other moneys payable to such employer by any department or agency of the state.

*(17) On and after the effective date of this act, notwithstanding the employer rate of contribution determined under subsection (1)(a), for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, the employer rate of contribution for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, shall be 8.65% expressed as a percentage of compensation for payroll periods chargeable to the last six months of the fiscal year ending June 30, 2015.*

Sec. 57. K.S.A. 2014 Supp. 74-50,107 is hereby amended to read as follows: 74-50,107. (a) (1) The secretary shall determine and from time to time shall redetermine the rate at which moneys shall be credited to the IMPACT program repayment fund in order to satisfy all bond repayment obligations which have been incurred to finance program costs for IMPACT programs, which shall be referred to as the debt service rate, and the rate at which moneys shall be credited to the IMPACT program services fund in order to finance program costs that are not financed by bonds, which shall be referred to as the direct funding rate. The total of the debt service rate and the direct funding rate shall be the combined rate. Each rate so determined shall be certified to the secretary of revenue. The combined rate determined under this subsection shall not exceed 2%.

(2) Upon receipt of the rates determined and certified under subsection (a)(1), the secretary of revenue shall apply daily the combined rate to that portion of the moneys withheld from the wages of individuals and collected under the Kansas withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto. The amount so determined shall be credited as follows: (A) The portion attributable to the debt service rate shall be credited to the IMPACT program repayment fund; and (B) the remaining portion shall be credited to the IMPACT program services fund.

(3) The aggregate of all amounts credited to the IMPACT program repayment fund under this section during any fiscal year to pay bond repayment obligations on bonds to finance major project investments shall not exceed the amount which results when the rate of 2% is applied to all moneys withheld from the wages of individuals and received under the Kansas withholding and declaration of estimated tax act.

(4) The provisions of this subsection shall remain in effect prior to July 1, 2012.

(b) Commencing July 1, 2012, and on the first day of each month thereafter during fiscal year 2013, fiscal year 2014, and fiscal year 2015,

the secretary of revenue shall apply a rate of 2% to that portion of moneys withheld from the wages of individuals and collected under the Kansas withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto. The amount so determined shall be credited on a monthly basis as follows: (1) An amount necessary to meet obligations of the debt services for the IMPACT program repayment fund; and (2) an amount to the IMPACT program services fund as needed for program administration; and (3) any remaining amounts to the job creation program fund created pursuant to K.S.A. 2014 Supp. 74-50,224, and amendments thereto. During fiscal year 2013, the aggregate amount that is credited to the job creation program fund pursuant to this subsection shall not exceed \$10,000,000 for such fiscal year. During fiscal years 2014 and 2015 the aggregate amount that is credited to the job creation program fund pursuant to this subsection shall not exceed ~~\$7,500,000~~ \$360,000 for such fiscal year.

(c) Commencing July 1, 2015, and on an annual basis thereafter, the secretary of revenue shall estimate the amount equal to the amount of net savings realized from the elimination, modification or limitation of any credit, deduction or program pursuant to the provisions of this act as compared to the expense deduction provided for in K.S.A. 2014 Supp. 79-32,143a, and amendments thereto. Whereupon such amount of savings in accordance with appropriation acts 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 to the credit of the job creation program fund created pursuant to K.S.A. 2014 Supp. 74-50,224, and amendments thereto. In addition, such other amount or amounts of money may be transferred from the state general fund or any other fund or funds in the state treasury to the job creation program fund in accordance with appropriation acts.

Sec. 58. *Severability.* If any provision or clause of this act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 59. *Appeals to exceed expenditure limitations.* (a) Upon written application to the governor and approval of the state finance council, expenditures from special revenue funds may exceed the amounts specified in this act.

(b) This section shall not apply to the expanded lottery act revenues fund, state economic development initiatives fund, the children's initiatives fund, the state water plan fund or the Kansas endowment for youth fund, or to any account of any of such funds.

Sec. 60. K.S.A. 2014 Supp. 72-8814, 74-4914d, 74-4920 and 74-50,107 are hereby repealed.

Sec. 61. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved February 10, 2015.

Published in the *Kansas Register* February 12, 2015.

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## CHAPTER 2

### SENATE BILL No. 46

AN ACT concerning domesticated deer; relating to identification of deer; amending K.S.A. 2014 Supp. 47-2101 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 47-2101 is hereby amended to read as follows: 47-2101. (a) It shall be unlawful for any person to possess domesticated deer unless such person has obtained from the animal health commissioner a domesticated deer permit. Application for such permit shall be made in writing on a form provided by the commissioner. The permit period shall be for the permit year ending on June 30 following the issuance date.

(b) Each application for issuance or renewal of a permit shall be accompanied by a fee of not more than \$400 as established by the commissioner in rules and regulations.

(c) The animal health commissioner shall adopt any rules and regulations necessary to enforce the provisions of article 21 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, ensure compliance with federal requirements and protect domestic animals and wildlife from disease risks related to domestic deer production.

(d) Any person who fails to obtain a permit as prescribed in subsection (a) shall be deemed guilty of a class C nonperson misdemeanor and upon conviction shall be punished by a fine not exceeding \$1,000. Continued operation, after a conviction, shall constitute a separate offense for each day of operation.

(e) The commissioner may refuse to issue or renew or may suspend or revoke any permit for any one of the following reasons:

(1) Material misstatement in the application for the original permit or in the application for any renewal of a permit;

(2) the conviction of any crime, an essential element of which is misstatement, fraud or dishonesty, or relating to the theft of or cruelty to animals;

(3) substantial misrepresentation;

(4) the person who is issued a permit is found to be poaching or illegally obtaining deer; or

(5) the permit holder's willful disregard of any rule or regulation adopted under this section.

(f) Any refusal to issue or renew a permit and any suspension or revocation of a permit under this section shall be in accordance with the provisions of the Kansas administrative procedure act and shall be subject to review in accordance with the Kansas judicial review act.

(g) ~~Domesticated deer shall be identified through implantation of microchips, ear tags, ear tattoos, ear notches or any other permanent identification on such deer as to identify such deer as domesticated deer. Each domesticated deer, regardless of age, that enters a premises alive or leaves a premises alive or dead for any purpose, other than for direct movement to a licensed or registered slaughter facility in Kansas, shall have official identification, as prescribed by rules and regulations of the commissioner.~~ Any person who receives a permit issued pursuant to subsection (a) shall keep records of such deer as required by rules and regulations adopted pursuant to this section.

(h) (1) The animal health commissioner or the commissioner's representatives may inspect the premises and records of any person issued a domesticated deer permit, but shall not inspect such premises and records more than once each permit year, unless the commissioner has:

(A) Discovered a violation of article 21 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto; or

(B) received a complaint that such premises is not being operated, managed or maintained in accordance with rules and regulations adopted pursuant to this section.

(2) The commissioner or the commissioner's representatives may inspect unlicensed premises when the commissioner has reasonable grounds to believe that a person is violating the provisions of this section.

(i) The animal health commissioner, on an annual basis, shall transmit to the secretary of wildlife, parks and tourism a current list of persons issued a permit pursuant to this section. The department of agriculture may request assistance from the department of wildlife, parks and tourism to assist in implementing and enforcing article 21 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto.

(j) All moneys 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 animal disease control fund.

(k) As used in this section:

(1) "Deer" means any member of the family cervidae.

(2) "Domesticated deer" means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area

for: (A) Breeding stock; (B) any carcass, skin or part of such animal; (C) exhibition; or (D) companionship.

Sec. 2. K.S.A. 2014 Supp. 47-2101 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 25, 2015.

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## CHAPTER 3

### SENATE BILL No. 13

AN ACT concerning criminal history record information; definitions; amending K.S.A. 2014 Supp. 22-4701 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 22-4701 is hereby amended to read as follows: 22-4701. As used in this act, unless the context clearly requires otherwise:

(a) “Central repository” means the criminal justice information system central repository created by this act and the juvenile offender information system created pursuant to K.S.A. 2014 Supp. 38-2326, and amendments thereto.

(b) “Criminal history record information” means all data initiated or collected by a criminal justice agency on a person pertaining to a reportable event, and any supporting documentation. Criminal history record information does not include:

(1) Data contained in intelligence or investigatory files or police work-product records used solely for police investigation purposes;

(2) wanted posters, police blotter entries, court records of public judicial proceedings or published court opinions;

(3) data pertaining to violations of the traffic laws of the state or any other traffic law or ordinance, other than vehicular homicide;

(4) presentence investigation and other reports prepared for use by a court in the exercise of criminal jurisdiction or by the governor in the exercise of the power of pardon, reprieve or commutation; or

(5) information regarding the release ~~of defendants from confinement~~, assignment to work release, or any other change in custody status of a person confined by the department of corrections or a jail.

(c) “Criminal justice agency” means any government agency or subdivision of any such agency which is authorized by law to exercise the power of arrest, detention, prosecution, adjudication, correctional supervision, rehabilitation or release of persons suspected, charged or convicted of a crime and which allocates a substantial portion of its annual

budget to any of these functions. The term includes, but is not limited to, the following agencies, when exercising jurisdiction over criminal matters or criminal history record information:

(1) State, county, municipal and railroad police departments, sheriffs' offices and countywide law enforcement agencies, correctional facilities, jails and detention centers;

(2) the offices of the attorney general, county or district attorneys and any other office in which are located persons authorized by law to prosecute persons accused of criminal offenses;

(3) the district courts, the court of appeals, the supreme court, the municipal courts and the offices of the clerks of these courts;

(4) the Kansas sentencing commission; *and*

(5) the prisoner review board; ~~and~~

~~(6) the juvenile justice authority.~~

(d) "Criminal justice information system" means the equipment—(including computer hardware and software), facilities, procedures, agreements and personnel used in the collection, processing, preservation and dissemination of criminal history record information.

(e) "Director" means the director of the Kansas bureau of investigation.

(f) "Disseminate" means to transmit criminal history record information in any oral or written form. The term does not include:

(1) The transmittal of such information within a criminal justice agency;

(2) the reporting of such information as required by this act; or

(3) the transmittal of such information between criminal justice agencies in order to permit the initiation of subsequent criminal justice proceedings against a person relating to the same offense.

(g) "Reportable event" means an event specified or provided for in K.S.A. 22-4705, and amendments thereto.

Sec. 2. K.S.A. 2014 Supp. 22-4701 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 25, 2015.

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CHAPTER 4

House Substitute for SENATE BILL No. 7  
(Amends Chapter 1)  
(Amended by Chapters 92 and 99)

TO SEC.  
Education, department of .....1, 2, 3

AN ACT concerning education; relating to the financing and instruction thereof; making and concerning appropriations for the fiscal years ending June 30, 2015, June 30, 2016, and June 30, 2017, for the department of education; creating the classroom learning assuring student success act; amending K.S.A. 12-1677, 12-1775a, 72-1414, 72-6622, 72-6757, 72-8190, 72-8230, 72-8233, 72-8236, 72-8309, 72-8908, 79-2001 and 79-5105 and K.S.A. 2014 Supp. 10-1116a, 12-1770a, 12-1776a, 72-978, 72-1046b, 72-1398, 72-1923, 72-3607, 72-3711, 72-3712, 72-3715, 72-5333b, 72-6434, 72-6460, 72-64b01, 72-64c03, 72-64c05, 72-6624, 72-6625, 72-67,115, 72-7535, 72-8187, 72-8237, 72-8249, 72-8250, 72-8251, 72-8302, 72-8316, 72-8415b, 72-8801, 72-8804, 72-8814, as amended by section 54 of 2015 House Substitute for Senate Bill No. 4, 72-9509, 72-9609, 72-99a02, 74-32,141, 74-4939a, 74-8925, 74-99b43, 75-2319, 79-201x, 79-213 and 79-2925b and repealing the existing sections; also repealing K.S.A. 72-6406, 72-6408, 72-6411, 72-6415, 72-6418, 72-6419, 72-6424, 72-6427, 72-6429, 72-6432, 72-6436, 72-6437, 72-6444, 72-6446 and 72-6447 and K.S.A. 2014 Supp. 46-3401, 46-3402, 72-3716, 72-6405, 72-6407, 72-6409, 72-6410, 72-6412, 72-6413, 72-6414, 72-6414a, 72-6414b, 72-6415b, 72-6416, 72-6417, 72-6420, 72-6421, 72-6423, 72-6425, 72-6426, 72-6428, 72-6430, 72-6431, 72-6433, 72-6433d, 72-6434, as amended by section 38 of this act, 72-6434b, 72-6435, 72-6438, 72-6439, 72-6439a, 72-6441, 72-6441a, 72-6442b, 72-6443, 72-6445a, 72-6448, 72-6449, 72-6450, 72-6451, 72-6452, 72-6453, 72-6455, 72-6456, 72-6457, 72-6458, 72-6460, as amended by section 39 of this act, 72-6461, 72-8801a, 72-8814, as amended by section 63 of this act, 72-8814b, 72-8815 and 79-213f.

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

Section 1.

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:

General state aid .....	\$27,346,783
Supplemental general state aid .....	\$1,803,566

(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:

School district extraordinary need fund.....	\$4,000,000
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(c) On the effective date of this act, the director of accounts and reports shall transfer \$4,000,000 from the state general fund to the school district extraordinary need fund of the department of education.

Sec. 2.

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2016, the following:

Operating expenditures (including official hospitality) ..... \$12,792,999

*Provided*, That any unencumbered balance in the operating expenditures (including official hospitality) account in excess of \$100 as of June 30, 2015, is hereby reappropriated for fiscal year 2016.

Special education services aid..... \$424,902,949

*Provided*, That any unencumbered balance in the special education services aid account in excess of \$100 as of June 30, 2015, is hereby reappropriated for fiscal year 2016: *Provided further*, That expenditures shall not be made from the special education services aid account for the provision of instruction for any homebound or hospitalized child unless the categorization of such child as exceptional is conjoined with the categorization of the child within one or more of the other categories of exceptionality: *And provided further*, That expenditures shall be made from this account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-983, and amendments thereto: *And provided further*, That expenditures shall be made from the amount remaining in this account, after deduction of the expenditures specified in the foregoing proviso, for payments to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-978, and amendments thereto.

Block grants to USDs .....\$2,751,326,659

Information technology education opportunities ..... \$500,000

Discretionary grants..... \$322,457

*Provided*, That the above agency shall make expenditures from the discretionary grants account during the fiscal year 2016, in the amount not less than \$125,000 for after school programs for middle school students in the sixth, seventh and eighth grades: *Provided further*, That the after school programs may also include fifth and ninth grade students, if they attend a junior high: *And provided further*, That such discretionary grants shall be awarded to after school programs that operate for a minimum of two hours a day, every day that school is in session, and a minimum of six hours a day for a minimum of five weeks during the summer: *And provided further*, That the discretionary grants awarded to after school programs shall require a \$1 for \$1 local match: *And provided further*, That the aggregate amount of discretionary grants awarded to any one after school program shall not exceed \$25,000: *And provided further*, That during the fiscal year ending June 30, 2016, expenditures shall be made by the above agency from the discretionary grants fund for fiscal year 2016 to establish a pilot program for communities in schools programming in three school districts in Kansas: *And provided further*, That communities in schools shall conduct an outcomes based study of its programming during fiscal year 2016: *And provided further*, That the Kansas department of education is hereby authorized and directed to provide to

communities in schools such student or other data as shall be necessary to permit communities in schools to conduct such study of outcomes regarding the students assisted with such communities in schools programming: *And provided further*, That such data shall include data regarding demographically similar students at peer institutions not involved in communities in schools programs, to permit the research study to compare outcomes of students receiving communities in schools services versus students not receiving such services: *And provided further*, That upon providing the Kansas department of education with the names of students participating in the communities in schools program, the Kansas department of education shall provide the current status of students identified as participating in the program.

School food assistance.....	\$2,510,486
State match for Fort Riley school construction .....	\$409,541
School safety hotline .....	\$10,000
KPERS — employer contributions.....	\$17,646,253

*Provided*, That any unencumbered balance in the KPERS — employer contributions account in excess of \$100 as of June 30, 2015, is hereby reappropriated for fiscal year 2016: *Provided further*, That all expenditures from the KPERS — employer contributions account shall be for payment of participating employers’ contributions to the Kansas public employees retirement system as provided in K.S.A. 74-4939, and amendments thereto: *And provided further*, That expenditures from this account for the payment of participating employers’ contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.

Educable deaf-blind and severely handicapped children’s programs aid.....	\$110,000
School district juvenile detention facilities and Flint Hills job center grants .....	\$4,971,500

*Provided*, That 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, 2015, is hereby reappropriated for fiscal year 2016: *Provided further*, That expenditures shall be made from the school district juvenile detention facilities and Flint Hills job corps center grants account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-8187, and amendments thereto.

Governor’s teaching excellence scholarships and awards...	\$327,500
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*Provided*, That any unencumbered balance in the governor’s teaching excellence scholarships and awards account in excess of \$100 as of June 30, 2015, is hereby reappropriated for fiscal year 2016: *Provided further*, That all expenditures from the governor’s teaching excellence scholar-

ships and awards account for teaching excellence scholarships shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *And provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants for governor’s teaching excellence scholarships shall be deposited in the state treasury and credited to the governor’s teaching excellence scholarships program repayment fund.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2016, 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 school district finance fund .....	No limit
School district capital improvements fund .....	No limit
<i>Provided</i> , That expenditures from the school district capital improvements fund shall be made only for the payment of general obligation bonds approved by voters under the authority of K.S.A. 72-6761, and amendments thereto.	
Mineral production education fund .....	No limit
Conversion of materials and equipment fund .....	No limit
State safety fund .....	No limit
School bus safety fund .....	No limit
Motorcycle safety fund .....	No limit
Federal indirect cost reimbursement fund .....	No limit
Teacher and administrator fee fund .....	No limit
Food assistance — federal fund .....	No limit
Education jobs fund — federal .....	No limit
Food assistance — school breakfast program — federal fund .....	No limit
Food assistance — national school lunch program — federal fund .....	No limit
Food assistance — child and adult care food program — federal fund .....	No limit
Elementary and secondary school aid — federal fund .....	No limit
Elementary and secondary school aid — educationally deprived children — federal fund .....	No limit
Educationally deprived children — state operations — federal fund .....	No limit

Elementary and secondary school — educationally deprived children — LEA’s fund.....	No limit
ESEA chapter II — state operations — federal fund.....	No limit
Education of handicapped children fund — federal.....	No limit
Education of handicapped children fund — state operations — federal fund.....	No limit
Education of handicapped children fund — preschool — federal fund.....	No limit
Education of handicapped children fund — preschool state operations — federal .....	No limit
Elementary and secondary school aid — federal fund — migrant education fund .....	No limit
Elementary and secondary school aid — federal fund — migrant education — state operations .....	No limit
Vocational education amendments of 1968 — federal fund .....	No limit
Vocational education title II — federal fund.....	No limit
Vocational education title II — federal fund — state operations .....	No limit
Educational research grants and projects fund.....	No limit
Drug abuse fund — department of education — federal .....	No limit
Drug abuse funds — federal — state operations fund .....	No limit
Federal K-12 fiscal stabilization fund.....	No limit
Inservice education workshop fee fund.....	No limit

*Provided*, That expenditures may be made from the inservice education workshop fee fund for operating expenditures, including official hospitality, incurred for inservice workshops and conferences: *Provided further*, That the state board of education is hereby authorized to fix, charge and collect fees for inservice workshops and conferences: *And provided further*, That such fees shall be fixed in order to recover all or part of such operating expenditures incurred for inservice workshops and conferences: *And provided further*, That all fees received for inservice workshops and conferences 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 inservice education workshop fee fund.

Private donations, gifts, grants and bequests fund .....	No limit
Interactive video fee fund.....	No limit

*Provided*, That expenditures may be made from the interactive video fee fund for operating expenditures incurred in conjunction with the operation and use of the interactive video conference facility of the department of education: *Provided further*, That the state board of education is hereby authorized to fix, charge and collect fees for the operation and use of such interactive video conference facility: *And provided further*,

That all fees received for the operation and use of such interactive video conference facility 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 interactive video fee fund.

Reimbursement for services fund .....	No limit
Communities in schools program fund .....	No limit
Governor’s teaching excellence scholarships program repayment fund.....	No limit

*Provided*, That all expenditures from the governor’s teaching excellence scholarships program repayment fund shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *Provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants made under the governor’s teaching excellence scholarships program 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 governor’s teaching excellence scholarships program repayment fund.

Elementary and secondary school aid — federal fund — reading first .....	No limit
Elementary and secondary school aid — federal fund — reading first — state operations .....	No limit
State grants for improving teacher quality — federal fund .....	No limit
State grants for improving teacher quality — federal fund — state operations.....	No limit
21st century community learning centers — federal fund .....	No limit
State assessments — federal fund.....	No limit
Rural and low-income schools program — federal fund ...	No limit
Language assistance state grants — federal fund.....	No limit
Service clearing fund .....	No limit
Helping schools license plate program fund .....	No limit
General state aid transportation weighting — state highway fund .....	No limit

*Provided*, That on July 1, 2015, October 1, 2015, January 1, 2016, and April 1, 2016, the director of accounts and reports shall transfer \$24,150,000 from the state highway fund of the department of transportation to the general state aid transportation weighting — state highway fund of the department of education.

Special education transportation weighting — state  
 highway fund..... No limit

*Provided*, That on July 1, 2015, October 1, 2015, January 1, 2016, and April 1, 2016, the director of accounts and reports shall transfer \$2,500,000 from the state highway fund of the department of transportation to the special education transportation weighting — state highway fund of the department of education.

Career and technical education transportation — state  
 highway fund..... No limit

*Provided*, That on July 1, 2015, the director of accounts and reports shall transfer \$650,000 from the state highway fund of the department of transportation to the career and technical education transportation — state highway fund of the department of education.

Educational technology coordinator fund..... No limit

*Provided*, That expenditures shall be made by the above agency for the fiscal year ending June 30, 2016, from the educational technology coordinator fund of the department of education to provide data on the number of school districts served and cost savings for those districts in fiscal year 2016 in order to assess the cost effectiveness of the position of educational technology coordinator.

School district extraordinary need fund..... \$12,292,000

(c) There is appropriated for the above agency from the children’s initiatives fund for the fiscal year ending June 30, 2016, the following:

Pre-K program..... \$4,799,812  
 Parent education program ..... \$7,237,635

*Provided*, That expenditures from the parent education program account for each such grant shall be matched by the school district in an amount which is equal to not less than 65% of the grant.

(d) On July 1, 2015, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-1,148 or 38-1808, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$50,000 from the family and children trust account of the family and children investment fund of the Kansas department for children and families to the communities in schools program fund of the department of education.

(e) On March 30, 2016, 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 to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection

is 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 department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(f) On June 30, 2016, 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 to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is 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 department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(g) On July 1, 2015, and quarterly thereafter, the director of accounts and reports shall transfer \$63,326 from the state highway fund of the department of transportation to the school bus safety fund of the department of education.

(h) On July 1, 2015, the director of accounts and reports shall transfer an amount certified by the commissioner of education from the motorcycle safety fund of the department of education to the motorcycle safety fund of the state board of regents: *Provided*, That the amount to be transferred shall be determined by the commissioner of education based on the amounts required to be paid pursuant to K.S.A. 8-272(b)(2), and amendments thereto.

(i) There is appropriated for the above agency from the expanded lottery act revenues fund for the fiscal year ending June 30, 2016, the following:

KPERS — school employer contribution ..... \$36,158,948

(j) On July 1, 2015, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$85,811 from the USAC E-rate program federal fund of the state board of regents to the education technology coordinator fund of the department of education: *Provided*, That the department of education shall provide information and data regarding the number of school districts served and cost savings attained by such school districts in order to assess the cost effectiveness of having this education technology coordinator position: *Provided further*, That such information and data shall be available by the department of education by the end of the fiscal year 2016.

Sec. 3.

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2017, the following:

Operating expenditures (including official hospitality)..... \$13,073,604

*Provided*, That any unencumbered balance in the operating expenditures (including official hospitality) account in excess of \$100 as of June 30, 2016, is hereby reappropriated for fiscal year 2017.

Special education services aid..... \$423,980,455

*Provided*, That any unencumbered balance in the special education services aid account in excess of \$100 as of June 30, 2016, is hereby reappropriated for fiscal year 2017: *Provided further*, That expenditures shall not be made from the special education services aid account for the provision of instruction for any homebound or hospitalized child unless the categorization of such child as exceptional is conjoined with the categorization of the child within one or more of the other categories of exceptionality: *And provided further*, That expenditures shall be made from this account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-983, and amendments thereto: *And provided further*, That expenditures shall be made from the amount remaining in this account, after deduction of the expenditures specified in the foregoing proviso, for payments to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-978, and amendments thereto.

Block grants to USDs.....\$2,760,946,624

*Provided*, That any unencumbered balance in the block grants to USDs account in excess of \$100 as of June 30, 2016, is hereby reappropriated for fiscal year 2017.

Information technology education opportunities ..... \$500,000

Discretionary grants..... \$322,457

*Provided*, That the above agency shall make expenditures from the discretionary grants account during the fiscal year 2017, in the amount not less than \$125,000 for after school programs for middle school students in the sixth, seventh and eighth grades: *Provided further*, That the after school programs may also include fifth and ninth grade students, if they attend a junior high: *And provided further*, That such discretionary grants shall be awarded to after school programs that operate for a minimum of two hours a day, every day that school is in session, and a minimum of six hours a day for a minimum of five weeks during the summer: *And provided further*, That the discretionary grants awarded to after school programs shall require a \$1 for \$1 local match: *And provided further*, That the aggregate amount of discretionary grants awarded to any one after school program shall not exceed \$25,000: *And provided further*,

That during the fiscal year ending June 30, 2017, expenditures shall be made by the above agency from the discretionary grants fund for fiscal year 2017 to establish a pilot program for communities in schools programming in three school districts in Kansas: *And provided further*, That communities in schools shall conduct an outcomes based study of its programming during fiscal year 2017: *And provided further*, That the Kansas department of education is hereby authorized and directed to provide to communities in schools such student or other data as shall be necessary to permit communities in schools to conduct such study of outcomes regarding the students assisted with such communities in schools programming: *And provided further*, That such data shall include data regarding demographically similar students at peer institutions not involved in communities in schools programs, to permit the research study to compare outcomes of students receiving communities in schools services versus students not receiving such services: *And provided further*, That upon providing the Kansas department of education with the names of students participating in the communities in schools program, the Kansas department of education shall provide the current status of students identified as participating in the program.

School food assistance .....	\$2,510,486
School safety hotline .....	\$10,000
KPERS — employer contributions.....	\$23,109,684

*Provided*, That any unencumbered balance in the KPERS — employer contributions account in excess of \$100 as of June 30, 2016, is hereby reappropriated for fiscal year 2017: *Provided further*, That all expenditures from the KPERS — employer contributions account shall be for payment of participating employers’ contributions to the Kansas public employees retirement system as provided in K.S.A. 74-4939, and amendments thereto: *And provided further*, That expenditures from this account for the payment of participating employers’ contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.

Educable deaf-blind and severely handicapped children’s programs aid.....	\$110,000
School district juvenile detention facilities and Flint Hills job corps center grants.....	\$4,971,500

*Provided*, That 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, 2016, is hereby reappropriated for fiscal year 2017: *Provided further*, That expenditures shall be made from the school district juvenile detention facilities and Flint Hills job corps center grants account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-8187, and amendments thereto.

Governor’s teaching excellence scholarships and awards... \$327,500

Provided, That any unencumbered balance in the governor’s teaching excellence scholarships and awards account in excess of \$100 as of June 30, 2016, is hereby reappropriated for fiscal year 2017: Provided further, That all expenditures from the governor’s teaching excellence scholarships and awards account for teaching excellence scholarships shall be made in accordance with K.S.A. 72-1398, and amendments thereto: And provided further, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: And provided further, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: And provided further, That all moneys received by the department of education for repayment of grants for governor’s teaching excellence scholarships shall be deposited in the state treasury and credited to the governor’s teaching excellence scholarships program repayment fund.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2017, 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 school district finance fund ..... No limit
- School district capital improvements fund..... No limit

Provided, That expenditures from the school district capital improvements fund shall be made only for the payment of general obligation bonds approved by voters under the authority of K.S.A. 72-6761, and amendments thereto.

- Mineral production education fund..... No limit
- Conversion of materials and equipment fund ..... No limit
- State safety fund ..... No limit
- School bus safety fund ..... No limit
- Motorcycle safety fund..... No limit
- Federal indirect cost reimbursement fund ..... No limit
- Teacher and administrator fee fund ..... No limit
- Food assistance — federal fund..... No limit
- Education jobs fund — federal..... No limit
- Food assistance — school breakfast program — federal fund ..... No limit
- Food assistance — national school lunch program — federal fund..... No limit
- Food assistance — child and adult care food program — federal fund..... No limit

Elementary and secondary school aid — federal fund.....	No limit
Elementary and secondary school aid — educationally deprived children — federal fund.....	No limit
Educationally deprived children — state operations — federal fund.....	No limit
Elementary and secondary school — educationally deprived children — LEA’s fund.....	No limit
ESEA chapter II — state operations — federal fund.....	No limit
Education of handicapped children fund — federal.....	No limit
Education of handicapped children fund — state operations — federal fund.....	No limit
Education of handicapped children fund — preschool — federal fund.....	No limit
Education of handicapped children fund — preschool state operations — federal.....	No limit
Elementary and secondary school aid — federal fund — migrant education fund.....	No limit
Elementary and secondary school aid — federal fund — migrant education — state operations.....	No limit
Vocational education amendments of 1968 — federal fund.....	No limit
Vocational education title II — federal fund.....	No limit
Vocational education title II — federal fund — state operations.....	No limit
Educational research grants and projects fund.....	No limit
Drug abuse fund — department of education — federal.....	No limit
Drug abuse funds — federal — state operations fund.....	No limit
Federal K-12 fiscal stabilization fund.....	No limit
Inservice education workshop fee fund.....	No limit

*Provided*, That expenditures may be made from the inservice education workshop fee fund for operating expenditures, including official hospitality, incurred for inservice workshops and conferences: *Provided further*, That the state board of education is hereby authorized to fix, charge and collect fees for inservice workshops and conferences: *And provided further*, That such fees shall be fixed in order to recover all or part of such operating expenditures incurred for inservice workshops and conferences: *And provided further*, That all fees received for inservice workshops and conferences 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 inservice education workshop fee fund.

Private donations, gifts, grants and bequests fund.....	No limit
Interactive video fee fund.....	No limit

*Provided*, That expenditures may be made from the interactive video fee

fund for operating expenditures incurred in conjunction with the operation and use of the interactive video conference facility of the department of education: *Provided further*, That the state board of education is hereby authorized to fix, charge and collect fees for the operation and use of such interactive video conference facility: *And provided further*, That all fees received for the operation and use of such interactive video conference facility 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 interactive video fee fund.

Reimbursement for services fund .....	No limit
Communities in schools program fund .....	No limit
Governor’s teaching excellence scholarships program repayment fund.....	No limit

*Provided*, That all expenditures from the governor’s teaching excellence scholarships program repayment fund shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *Provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants made under the governor’s teaching excellence scholarships program 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 governor’s teaching excellence scholarships program repayment fund.

Elementary and secondary school aid — federal fund — reading first .....	No limit
Elementary and secondary school aid — federal fund — reading first — state operations.....	No limit
State grants for improving teacher quality — federal fund .....	No limit
State grants for improving teacher quality — federal fund — state operations.....	No limit
21st century community learning centers — federal fund .....	No limit
State assessments — federal fund.....	No limit
Rural and low-income schools program — federal fund ...	No limit
Language assistance state grants — federal fund.....	No limit
Service clearing fund .....	No limit
Helping schools license plate program fund .....	No limit
General state aid transportation weighting — state highway fund .....	No limit

*Provided*, That on July 1, 2016, October 1, 2016, January 1, 2017, and April 1, 2017, the director of accounts and reports shall transfer \$24,150,000 from the state highway fund of the department of transportation to the general state aid transportation weighting — state highway fund of the department of education.

Special education transportation weighting — state highway fund ..... No limit

*Provided*, That on July 1, 2016, October 1, 2016, January 1, 2017, and April 1, 2017, the director of accounts and reports shall transfer \$2,500,000 from the state highway fund of the department of transportation to the special education transportation weighting — state highway fund of the department of education.

Career and technical education transportation — state highway fund ..... No limit

*Provided*, That on July 1, 2016, the director of accounts and reports shall transfer \$650,000 from the state highway fund of the department of transportation to the career and technical education transportation — state highway fund of the department of education.

Educational technology coordinator fund ..... No limit  
School district extraordinary need fund ..... \$17,521,425

(c) There is appropriated for the above agency from the children’s initiatives fund for the fiscal year ending June 30, 2017, the following:

Pre-K program ..... \$4,799,812  
Parent education program ..... \$7,237,635

*Provided*, That expenditures from the parent education program account for each such grant shall be matched by the school district in an amount which is equal to not less than 65% of the grant.

(d) On July 1, 2016, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-1,148 or 38-1808, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$50,000 from the family and children trust account of the family and children investment fund of the Kansas department for children and families to the communities in schools program fund of the department of education.

(e) On March 30, 2017, 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 to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is 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 department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(f) On June 30, 2017, 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 to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is 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 department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(g) On July 1, 2016, and quarterly thereafter, the director of accounts and reports shall transfer \$63,951 from the state highway fund of the department of transportation to the school bus safety fund of the department of education.

(h) On July 1, 2016, the director of accounts and reports shall transfer an amount certified by the commissioner of education from the motorcycle safety fund of the department of education to the motorcycle safety fund of the state board of regents: *Provided*, That the amount to be transferred shall be determined by the commissioner of education based on the amounts required to be paid pursuant to K.S.A. 8-272(b)(2), and amendments thereto.

(i) There is appropriated for the above agency from the expanded lottery act revenues fund for the fiscal year ending June 30, 2017, the following:

KPERS — school employer contribution ..... \$35,430,948

(j) On July 1, 2016, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$85,811 from the USAC E-rate program federal fund of the state board of regents to the education technology coordinator fund of the department of education: *Provided*, That the department of education shall provide information and data regarding the number of school districts served and cost savings attained by such school districts in order to assess the cost effectiveness of having this education technology coordinator position: *Provided further*, That such information and data shall be available by the department of education by the end of the fiscal year 2017.

New Sec. 4. (a) The provisions of sections 4 through 22, and amend-

ments thereto, shall be known and may be cited as the classroom learning assuring student success act.

(b) The legislature hereby declares that the intent of this act is to lessen state interference and involvement in the local management of school districts and to provide more flexibility and increased local control for school district boards of education and administrators in order to:

(1) Enhance predictability and certainty in school district funding sources and amounts;

(2) allow school district boards of education and administrators to best meet their individual school district's financial needs; and

(3) maximize opportunities for more funds to go to the classroom.

To meet this legislative intent, state financial support for elementary and secondary public education will be met by providing a block grant for school years 2015-2016 and 2016-2017 to each school district. Each school district's block grant will be based in part on, and be at least equal to, the total state financial support as determined for school year 2014-2015 under the school district finance and quality performance act, prior to its repeal. All school districts will be held harmless from any decreases to the final school year 2014-2015 amount of total state financial support.

(c) The legislature further declares that the guiding principles for the development of subsequent legislation for the finance of elementary and secondary public education should consist of the following:

(1) Ensuring that students' educational needs are funded;

(2) providing more funding to classroom instruction;

(3) maximizing flexibility in the use of funding by school district boards of education and administrators; and

(4) achieving the goal of providing students with those education capacities established in K.S.A. 72-1127, and amendments thereto.

(d) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 5. (a) As used in sections 4 through 22, and amendments thereto:

(1) (A) "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.

(B) The term "at-risk pupils" shall not include any pupil: (i) Enrolled in any of the grades one through 12 who is in attendance less than full time; or (ii) who is over 19 years of age. The provisions of this paragraph shall not apply to any pupil who has an individualized education program.

(2) "Board" means the board of education of a school district.

(3) "Current school year" means the school year during which general state aid is determined by the state board under section 6, and amendments thereto.

(4) "Enrollment" means: (A) (i) Subject to the provisions of subsec-

tion (a)(4)(A)(ii), for school 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 school district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the school district on September 20;

(ii) for school districts not described in subsection (a)(4)(A)(i), the number of pupils regularly enrolled in the school district on September 20; and

(iii) a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the school district on September 20 and attending kindergarten or any of the grades one through 12 maintained by the school district for at least one semester or two quarters or the equivalent thereof;

(B) if enrollment in a school district in any school year has decreased from enrollment in the preceding school year, enrollment of the school district in the current school year means whichever is the greater of:

(i) Enrollment in the preceding school year 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; or

(ii) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average of the sum of:

(a) Enrollment of the school district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled;

(b) 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

(c) 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.

(5) “February 20” has its usual meaning, except that in any year in which February 20 is not a day on which school is maintained, it shall mean the first day after February 20 on which school is maintained.

(6) “Preceding school year” means the school year immediately before the current school year.

(7) “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.

(8) “Preschool-aged exceptional children” means exceptional chil-

dren, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(9) “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.

(10) “School district” means a unified school district organized and operated under the laws of this state.

(11) “School year” means the 12-month period ending June 30.

(12) “September 20” has its usual meaning, except that in any year in which September 20 is not a day on which school is maintained, it shall mean the first day after September 20 on which school is maintained.

(13) “State board” means the state board of education.

(b) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 6. (a) For school year 2015-2016 and school year 2016-2017, the state board shall disburse general state aid to each school district in an amount equal to:

(1) Subject to the provisions of subsections (b) through (e), the amount of general state aid such school district received for school year 2014-2015, if any, pursuant to K.S.A. 72-6416, prior to its repeal, as prorated in accordance with K.S.A. 72-6410, prior to its repeal, less:

(A) The amount directly attributable to the ancillary school facilities weighting as determined for school year 2014-2015 under K.S.A. 72-6443, prior to its repeal;

(B) the amount directly attributable to the cost of living weighting as determined for school year 2014-2015 under K.S.A. 2014 Supp. 72-6450, prior to its repeal;

(C) the amount directly attributable to declining enrollment state aid as determined for school year 2014-2015 under K.S.A. 2014 Supp. 72-6452, prior to its repeal; and

(D) the amount directly attributable to virtual school state aid as determined for school year 2014-2015 under K.S.A. 2014 Supp. 72-3715, and amendments thereto, plus;

(2) the amount of supplemental general state aid such school district received for school year 2014-2015, if any, pursuant to K.S.A. 72-6434, prior to its repeal, as prorated in accordance with K.S.A. 72-6434, prior to its repeal, plus;

(3) the amount of capital outlay state aid such school district received

for school year 2014-2015, if any, pursuant to K.S.A. 2014 Supp. 72-8814, prior to its repeal, plus;

(4) (A) an amount that is directly attributable to the proceeds of the tax levied by the school district pursuant to section 14, and amendments thereto, provided, the school district has levied such tax;

(B) an amount that is directly attributable to the proceeds of the tax levied by the school district pursuant to section 15, and amendments thereto, provided, the school district has levied such tax;

(C) an amount that is directly attributable to the proceeds of the tax levied by the school district pursuant to section 16, and amendments thereto, provided, the school district has levied such tax, plus;

(5) the amount of virtual school state aid such school district is to receive under K.S.A. 2014 Supp. 72-3715, and amendments thereto, plus;

(6) an amount certified by the board of trustees of the Kansas public employees retirement system which is equal to the participating employer's obligation of such school district to the system, less;

(7) an amount equal to 0.4% of the amount determined under subsection (a)(1).

(b) For any school district whose school financing sources exceeded its state financial aid for school year 2014-2015 as calculated under the school district finance and quality performance act, prior to its repeal, the amount such school district is entitled to receive under subsection (a)(1) shall be the proceeds of the tax levied by the school district pursuant to section 11, and amendments thereto, less the difference between such school district's school financing sources and its state financial aid for school year 2014-2015 as calculated under the school district finance and quality performance act, prior to its repeal.

(c) For any school district formed by consolidation in accordance with article 87 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto, prior to the effective date of this act, and whose state financial aid for school year 2014-2015 was determined under K.S.A. 72-6445a, prior to its repeal, the amount of general state aid for such school district determined under subsection (a)(1) shall be determined as if such school district was not subject to K.S.A. 72-6445a, prior to its repeal, for school year 2014-2015.

(d) For any school district that consolidated in accordance with article 87 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto, and such consolidation becomes effective on or after July 1, 2015, the amount of general state aid for such school district determined under subsection (a)(1) shall be the sum of the general state aid each of the former school districts would have received under subsection (a)(1).

(e) (1) For any school district that was entitled to receive school facilities weighting for school year 2014-2015 under K.S.A. 72-6415b, prior to its repeal, and which would not have been eligible to receive such weighting for school year 2015-2016 under K.S.A. 72-6415b, prior to its

repeal, an amount directly attributable to the school facilities weighting as determined for school year 2014-2015 under K.S.A. 72-6415, prior to its repeal, for such school district shall be subtracted from the amount of general state aid for such school district determined under subsection (a)(1).

(2) For any school district which would have been eligible to receive school facilities weighting for school year 2015-2016 under K.S.A. 72-6415b, prior to its repeal, but which did not receive such weighting for school year 2014-2015, an amount directly attributable to the school facilities weighting as would have been determined under K.S.A. 72-6415, prior to its repeal, for school year 2015-2016 shall be added to the amount of general state aid for such school district determined under subsection (a)(1).

(3) For any school district which would have been eligible to receive school facilities weighting for school year 2016-2017 under K.S.A. 72-6415b, prior to its repeal, but which did not receive such weighting for school year 2014-2015, and which would not have been eligible to receive such weighting for school year 2015-2016 under K.S.A. 72-6415b, prior to its repeal, an amount directly attributable to the school facilities weighting as would have been determined under K.S.A. 72-6415, prior to its repeal, for school year 2016-2017 shall be added to the amount of general state aid for such school district determined under subsection (a)(1).

(f) The general state aid for each school district shall be disbursed in accordance with appropriation acts. In the event the appropriation for general state aid exceeds the amount determined under subsection (a) for any school year, then the state board shall disburse such excess amount to each school district in proportion to such school district's enrollment.

(g) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 7. (a) The distribution of general state aid determined pursuant to section 6, and amendments thereto, 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 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.

(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.

(e) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 8. (a) In the event any district is paid more than it is entitled to receive under any distribution made under the provisions of sections 4 through 22, and amendments thereto, or under any statute repealed by this act, the state board shall notify the district of the amount of such overpayment, and such district shall remit the same to the state board. The state board shall remit any moneys so 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 state school district finance fund. If any district fails so to remit, the state board shall deduct the excess amounts so paid from future payments becoming due to the district. In the event any district is paid less than the amount to which it is entitled under any distribution made under the provisions of sections 4 through 22, and amendments thereto, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year.

(b) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 9. (a) On or before October 10 of each school year, the clerk or superintendent of each district shall certify under oath to the state board a report showing the total enrollment of the district by grades maintained in the schools of the district and such other reports as the state board may require. Upon receipt of such report, the state board shall examine the report, and if the state board finds any errors in any such report, the state board shall consult with the district officer furnishing the report and make such corrections in the report as are necessary. One of such district officers shall also certify to the state board, on or before August 25 of each year, a copy of the budget adopted by the district.

(b) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 10. (a) The state school district finance fund, established by K.S.A. 1991 Supp. 72-7081, prior to its repeal, is hereby continued in existence and shall consist of: (1) All moneys credited to such fund under K.S.A. 72-6418, 72-6431, 72-6441 and K.S.A. 2014 Supp. 72-6449 and 72-6451, prior to their repeal; and (2) all amounts transferred to such fund pursuant to the provisions of sections 4 through 22, and amendments thereto.

(b) The state school district finance fund shall be used for the purpose of school district finance and for no other governmental purpose. It is the intent of the legislature that the fund shall remain intact and inviolate for such purpose, 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.

(c) Amounts in the state school district finance fund shall be allocated and distributed to school districts as a portion of general state aid entitlements provided for under section 6, and amendments thereto.

(d) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 11. (a) The board of education of each school district shall levy an ad valorem tax upon the taxable tangible property of the district at a rate of 20 mills in school year 2015-2016 and school year 2016-2017 for the purpose of:

(1) 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

(2) 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) Except for that portion of the proceeds used for the purpose specified in subsection (a)(2), the proceeds from the tax levied by a school 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 and shall credit the same to the state school finance fund.

(c) All moneys remitted to the state treasurer pursuant to subsection (b) shall be used for 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.

(d) No school district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

(e) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 12. (a) For school year 2015-2016 and school year 2016-2017, the board of any school district may adopt a local option budget which does not exceed the greater of: (1) The local option budget adopted by such school district for school year 2014-2015 pursuant to K.S.A. 72-6433, prior to its repeal; or (2) the local option budget such school district would have adopted for school year 2015-2016 pursuant to K.S.A. 72-6433, prior to its repeal.

(b) 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.

(c) Unless specifically stated otherwise in the resolution, the authority to adopt a local option budget shall be continuous and permanent. The board of any school district that has adopted a local option budget in a prior school year 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 school 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.

(d) The board of any district may initiate procedures to renew the authority to adopt a local option budget at any time during a school year after the tax levied pursuant to section 13, and amendments thereto, is certified to the county clerk under any existing authorization.

(e) The board of any school district that has adopted a local option budget prior to July 1, 2015, under a resolution which authorized the

adoption of such budget in accordance with the provisions of K.S.A. 72-6433, prior to its repeal, 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. Any such school district shall operate under the provisions of this section after the period of time specified in the resolution has expired.

(f) 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 limitation set forth in subsection (a) in any school year.

(g) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 13. (a) For school year 2015-2016 and school year 2016-2017, the board of each school district that has adopted a local option budget may levy an ad valorem tax on the taxable tangible property of the district for the purpose of:

(1) Financing that portion of the school district's local option budget which is not financed from any other source provided by law; and

(2) 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) Except the proceeds of such tax levied for the purpose specified in subsection (a)(2), the proceeds from the tax levied by a school district under authority of this section shall be deposited in the general fund of the district.

(c) No school district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

(d) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 14. (a) The board of any school district to which the provisions of this subsection apply may levy an ad valorem tax on the taxable tangible property of the school district for school years 2015-2016 and 2016-2017 in an amount not to exceed the amount authorized by the state court of tax appeals for school year 2014-2015 pursuant to K.S.A. 2014 Supp. 72-6451, prior to its repeal, for the purpose set forth in K.S.A. 2014 Supp. 72-6451, prior to its repeal. The provisions of this subsection apply to any school district that imposed a levy pursuant to K.S.A. 2014 Supp. 72-6451, prior to its repeal, for school year 2014-2015.

(b) The board of education of any school district which would have been eligible to levy an ad valorem tax pursuant to K.S.A. 2014 Supp. 72-

6451, prior to its repeal, for school year 2015-2016 or 2016-2017, may levy an ad valorem tax on the taxable tangible property of the school 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 board of tax appeals under this subsection for the purpose of financing the costs incurred by the school district directly attributable to the school district's declining enrollment. The state board of tax appeals may authorize the school district to make a levy which will produce an amount that is not greater than the amount of revenues lost as a result of the declining enrollment of the school district. Such amount shall not exceed 5% of the general fund budget of the school district in the school year in which the school district applies to the state board of tax appeals for authority to make a levy pursuant to this section.

(c) The state board of tax appeals shall certify to the state board the amount authorized to be produced by the levy of a tax under this section. The state board shall prescribe guidelines for the data that school districts shall include in cases before the state board of tax appeals pursuant to this section. The state board shall provide to the state board of tax appeals such school data and information requested by the state board of tax appeals and any other information deemed necessary by the state board.

(d) The proceeds from any tax levied by a school 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 and shall credit the same to the state school finance fund. All moneys remitted to the state treasurer pursuant to this subsection shall be used for 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.

(e) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 15. (a) The board of any school district to which the provisions of this subsection apply may levy an ad valorem tax on the taxable tangible property of the school district for school years 2015-2016 and 2016-2017 in an amount not to exceed the amount authorized by the state court of tax appeals for school year 2014-2015 pursuant to K.S.A. 72-6441, prior to its repeal, for the purpose set forth in K.S.A. 72-6441, prior to its repeal. The provisions of this subsection apply to any school district that imposed a levy pursuant to K.S.A. 72-6441, prior to its repeal, for school year 2014-2015.

(b) The board of any school district which would have been eligible to levy an ad valorem tax pursuant to K.S.A. 2014 Supp. 72-6441, prior to its repeal, for school year 2015-2016 or 2016-2017, may levy an ad valorem tax on the taxable tangible property of the school 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 board of tax appeals under this subsection for the purpose of financing the costs incurred by the school district that are directly attributable to ancillary school facilities. The state board of tax appeals may authorize the school 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.

(c) The state board 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). The state board of tax appeals may adopt rules and regulations necessary to effectuate the provisions of this section, including rules and regulations relating to the evidence required in support of a school 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.

(d) The board of any school district that has levied an ad valorem tax on the taxable tangible property of the school district each year for a period of two years under authority of subsection (b) 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 education of the school 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 school 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 school district under authority of subsection (b) in the second year for which such tax was levied;

(2) compute 90% of the amount of the sum obtained under subsection (d)(1), which computed amount is the amount the school district may levy in the first year of the six-year period for which the school district may levy a tax under authority of this subsection;

(3) compute 75% of the amount of the sum obtained under subsection (d)(1), which computed amount is the amount the school district may levy in the second year of the six-year period for which the school district may levy a tax under authority of this subsection;

(4) compute 60% of the amount of the sum obtained under subsection (d)(1), which computed amount is the amount the school district may

levy in the third year of the six-year period for which the school district may levy a tax under authority of this subsection;

(5) compute 45% of the amount of the sum obtained under subsection (d)(1), which computed amount is the amount the school district may levy in the fourth year of the six-year period for which the school district may levy a tax under authority of this subsection;

(6) compute 30% of the amount of the sum obtained under subsection (d)(1), which computed amount is the amount the school district may levy in the fifth year of the six-year period for which the school district may levy a tax under authority of this subsection; and

(7) compute 15% of the amount of the sum obtained under subsection (d)(1), which computed amount is the amount the school district may levy in the sixth year of the six-year period for which the school district may levy a tax under authority of this subsection.

(e) The proceeds from any tax levied by a school 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 and shall credit the same to the state school finance fund. All moneys remitted to the state treasurer pursuant to this subsection shall be used for 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.

(f) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 16. (a) The board of education of any school district to which the provisions of this subsection apply may levy a tax on the taxable tangible property within the school district for school years 2015-2016 and 2016-2017 in an amount not to exceed the amount authorized for school year 2014-2015 pursuant to K.S.A. 2014 Supp. 72-6449, prior to its repeal, for the purpose set forth in K.S.A. 2014 Supp. 72-6449, prior to its repeal. The provisions of this subsection apply to any school district that imposed a levy pursuant to K.S.A. 2014 Supp. 72-6449, prior to its repeal, for school year 2014-2015.

(b) The board of education of any school district which would have been eligible to levy an ad valorem tax pursuant to K.S.A. 2014 Supp. 72-6449, prior to its repeal, for school year 2015-2016 or 2016-2017, may levy a tax on the taxable tangible property within the school district for the purpose of financing the costs incurred by the school district that are attributable directly to the cost of paying cost-of-living salaries and wages in an amount not to exceed the amount such school district would have been authorized to levy under K.S.A. 2014 Supp. 72-6449, prior to its repeal.

(c) No tax may be levied under this section unless the board of ed-

ucation adopts a resolution authorizing such a tax levy and publishes the resolution at least once in a newspaper having general circulation in the school 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 levy an ad valorem tax in an amount not to exceed the amount necessary to finance the costs attributable directly to the cost of paying cost-of-living salaries and wages. The ad valorem tax authorized by this resolution may be levied 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 the publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether the levy of such a tax shall be authorized in accordance with the provisions of this resolution to the electors of the school district at the next general election of the school district, 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 \_\_\_\_\_, (year)\_\_\_\_\_.

\_\_\_\_\_  
Clerk of the board of education.

All of the blanks in the resolution shall be filled. If no petition as specified above is filed in accordance with the provisions of the resolution, the resolution authorizing the ad valorem tax levy shall become effective. If a petition is filed as provided in the resolution, the board may notify the county election officer to submit the question of whether such tax levy shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and of no force and effect and no like resolution shall be adopted by the board within the nine months following publication of the resolution. If a majority of the votes cast in an election conducted pursuant to this provision are in favor of the resolution, such resolution shall be effective on the date of such election. If a majority of the votes cast are not in favor of the resolution, the resolution shall be deemed of no effect and no like resolution shall be adopted by the board within the nine months following such election.

(d) The proceeds from any tax levied by a school 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 and shall credit the same to the state school finance fund. All moneys remitted to the state treasurer pursuant to this subsection shall be used for 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.

(e) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 17. (a) Each school district may submit an application to the state finance council for approval of extraordinary need state aid. Such application shall be submitted in such form and manner as prescribed by the state finance council, and shall include a description of the extraordinary need of the school district that is the basis for the application.

(b) The state finance council shall review all submitted applications and approve or deny such application based on whether the applicant school district has demonstrated extraordinary need. As part of its review of an application, the state finance council may conduct a hearing and provide the applicant school district an opportunity to present testimony as to such school district's extraordinary need. In determining whether a school district has demonstrated extraordinary need, the state finance council shall consider: (1) Any extraordinary increase in enrollment of the applicant school district for the current school year; (2) any extraordinary decrease in the assessed valuation of the applicant school district for the current school year; and (3) any other unforeseen acts or circumstances which substantially impact the applicant school district's general fund budget for the current school year.

(c) If the state finance council approves an application it shall certify to the state board of education that such application was approved and the amount of extraordinary need state aid to be disbursed to the applicant school district from the school district extraordinary need fund. In approving any application for extraordinary need state aid, the state finance council may approve an amount of extraordinary need state aid that is less than the amount the school district requested in the application. If the state finance council denies an application, then within 15 days of such denial it shall send written notice of such denial to the superintendent of such school district. The decision of the state finance council shall be final.

(d) There is hereby established in the state treasury the school district extraordinary need fund which shall be administered by the state department of education. All expenditures from the school district extraordinary need fund shall be used for the disbursement of extraordinary need state aid as approved by the state finance council under this section. All expenditures from the school district extraordinary need 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 board of education, or the designee of the state board of education. At the end of each fiscal year, the director of accounts and reports shall transfer to the state general fund any moneys in the school district ex-

traordinary need fund on each such date in excess of the amount required to pay all amounts of extraordinary need state aid approved by the state finance council for the current school year.

(e) For school year 2015-2016 and school year 2016-2017, the state board of education shall certify to the director of accounts and reports an amount equal to the aggregate of the amount determined under section 6(a)(7), and amendments thereto, for all school districts. Upon receipt of such certification, the director shall transfer the certified amount from the state general fund to the school district extraordinary need fund. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund.

(f) The approvals by the state finance council required by this section are hereby characterized as matters of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto. Such approvals may be given by the state finance council when the legislature is in session.

(g) The provisions of this section shall expire on July 1, 2017.

New Sec. 18. (a) Any fund established in a school district pursuant to K.S.A. 72-6409, 72-6420 through 72-6424 or K.S.A. 2014 Supp. 72-6414a or 72-6414b, and amendments thereto, prior to their repeal, shall continue in existence in such school district, subject to the provisions of sections 4 through 22, and amendments thereto.

(b) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 19. (a) Except for the bond and interest fund, the board of any school district may transfer moneys from the general fund to any other fund of the school district in any school year. Except for the bond and interest fund, special education fund and special retirement contributions fund, the board of any school district may transfer moneys from any fund of the school district to the general fund of the school district.

(b) The board of any school district may transfer moneys from any other fund to the special education fund or special retirement contributions fund of the school district, but no transfers shall be authorized from the bond and interest fund, special education fund or special retirement contributions fund. Moneys in the bond and interest fund, special education fund and special retirement contributions fund shall only be expended for such purposes as permitted by law.

(c) The aggregate amount of money transferred pursuant to this section from the capital outlay fund of a school district to the general fund of the school district, or to any other fund of the school district for any school year shall not exceed the aggregate amount of money held in the capital outlay fund that is not directly attributable to any tax levied under the authority of K.S.A. 72-8801, and amendments thereto.

(d) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 20. (a) In order to accomplish the mission for Kansas education, the state board of education shall design and adopt a school performance accreditation system based upon improvement in performance that reflects high academic standards and is measurable.

(b) The state board shall establish curriculum standards which reflect high academic standards for the core academic areas of mathematics, science, reading, writing and social studies. The curriculum standards shall be reviewed at least every seven years. Nothing in this subsection shall be construed in any manner so as to impinge upon any district's authority to determine its own curriculum.

(c) The state board shall provide for statewide assessments in the core academic areas of mathematics, science, reading, writing and social studies. The board shall ensure compatibility between the statewide assessments and the curriculum standards established pursuant to subsection (b). Such assessments shall be administered at three grade levels, as determined by the board. The state board shall determine performance levels on the statewide assessments, the achievement of which represents high academic standards in the academic area at the grade level to which the assessment applies. The state board should specify high academic standards both for individual performance and school performance on the assessments.

(d) Each school in every district shall establish a school site council composed of the principal and representatives of teachers and other school personnel, parents of pupils attending the school, the business community, and other community groups. School site councils shall be responsible for providing advice and counsel in evaluating state, school district, and school site performance goals and objectives and in determining the methods that should be employed at the school site to meet these goals and objectives. Site councils may make recommendations and proposals to the school board regarding budgetary items and school district matters, including, but not limited to, identifying and implementing the best practices for developing efficient and effective administrative and management functions. Site councils also may help school boards analyze the unique environment of schools, enhance the efficiency and maximize limited resources, including outsourcing arrangements and cooperative opportunities as a means to address limited budgets.

(e) Whenever the state board of education determines that a school has failed either to meet the accreditation requirements established by rules and regulations or standards adopted by the state board or provide the curriculum required by state law, the state board shall so notify the school district in which the school is located. Such notice shall specify the accreditation requirements that the school has failed to meet and the

curriculum that the school has failed to provide. Upon receipt of such notice, the board of education of such school district is encouraged to reallocate the resources of the school district to remedy all deficiencies identified by the state board. When making such reallocation, the board of education shall take into consideration the resource strategies of highly resource-efficient districts as identified in phase III of the Kansas education resource management study conducted by Standard and Poor's (March 2006).

(f) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 21. (a) The state board may adopt rules and regulations for the administration of the provisions of the classroom learning assuring student success act, section 4 et seq., and amendments thereto.

(b) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

New Sec. 22. (a) The provisions of sections 4 through 22, and amendments thereto, shall not be severable. If any provision of sections 4 through 22, and amendments thereto, is held to be invalid or unconstitutional by court order, all provisions of sections 4 through 22, and amendments thereto, shall be null and void.

(b) The provisions of this section shall be effective from and after July 1, 2015, through June 30, 2017.

Sec. 23. From and after July 1, 2015, K.S.A. 2014 Supp. 10-1116a is hereby amended to read as follows: 10-1116a. The limitations on expenditures imposed under the cash-basis law shall not apply to:

(a) Expenditures in excess of current revenues made for municipally owned and operated utilities out of the fund of such utilities caused by, or resulting from the meeting of, extraordinary emergencies including drought emergencies. In such cases expenditures in excess of current revenues may be made by declaring an extraordinary emergency by resolution adopted by the governing body and such resolution shall be published at least once in a newspaper of general circulation in such city. Thereupon, such governing body may issue interest bearing no-fund warrants on such utility fund in an amount, including outstanding previously issued no-fund warrants, not to exceed 25% of the revenues from sales of service of such utility for the preceding year. Such warrants shall be redeemed within three years from date of issuance and shall bear interest at a rate of not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto. Upon the declaration of a drought emergency, the governing body may issue such warrants for water system improvement purposes in an amount not to exceed 50% of the revenue received from the sale of water for the preceding year. Such warrants shall be redeemed within five years from the date of issuance

and shall bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto.

(b) Expenditures in any month by school districts which are in excess of current revenues if the deficit or shortage in revenues is caused by, or a result of, the payment of state aid after the date prescribed for the payment of state aid during such month under ~~K.S.A. 72-6417 or 72-6434~~ section 7, and amendments thereto.

Sec. 24. From and after July 1, 2015, K.S.A. 12-1677 is hereby amended to read as follows: 12-1677. (a) Except as otherwise required by state or federal law, all moneys earned and collected from investments by counties, area vocational-technical schools and quasi-municipal corporations authorized in this act shall be credited to the general fund of such county, area vocational-technical school or quasi-municipal corporation by the treasurer thereof, and all moneys earned and collected from investments by school districts authorized in this act shall be credited ~~in accordance with the provisions of K.S.A. 72-6427, and amendments thereto~~ to the general fund of the school district.

(b) The treasurer of each county, school district, area vocational-technical school or quasi-municipal corporation shall maintain a complete record of all investments authorized in this act and shall make a quarterly written report of such record to the governing body of such county, school district, area vocational-technical school or quasi-municipal corporation.

Sec. 25. From and after July 1, 2015, K.S.A. 2014 Supp. 12-1770a is hereby amended to read as follows: 12-1770a. As used in this act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

(a) “Auto race track facility” means: (1) An auto race track facility and facilities directly related and necessary to the operation of an auto race track facility, including, but not limited to, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding (2) hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.

(b) “Base year assessed valuation” means the assessed valuation of all real property within the boundaries of a redevelopment district on the date the redevelopment district was established.

(c) “Blighted area” means an area which:

(1) Because of the presence of a majority of the following factors, substantially impairs or arrests the development and growth of the municipality or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use:

(A) A substantial number of deteriorated or deteriorating structures;

- (B) predominance of defective or inadequate street layout;
- (C) unsanitary or unsafe conditions;
- (D) deterioration of site improvements;
- (E) tax or special assessment delinquency exceeding the fair market value of the real property;
- (F) defective or unusual conditions of title including but not limited to cloudy or defective titles, multiple or unknown ownership interests to the property;
- (G) improper subdivision or obsolete platting or land uses;
- (H) the existence of conditions which endanger life or property by fire or other causes; or
- (I) conditions which create economic obsolescence; or
- (2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation; feasibility study and remediation or other similar state or federal action; or
- (3) a majority of the property is a 100-year floodplain area; or
- (4) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 et seq., and amendments thereto.

(d) “Conservation area” means any improved area comprising 15% or less of the land area within the corporate limits of a city in which 50% or more of the structures in the area have an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

- (1) Dilapidation, obsolescence or deterioration of the structures;
- (2) illegal use of individual structures;
- (3) the presence of structures below minimum code standards;
- (4) building abandonment;
- (5) excessive vacancies;
- (6) overcrowding of structures and community facilities; or
- (7) inadequate utilities and infrastructure.

(e) “De minimus” means an amount less than 15% of the land area within a redevelopment district.

(f) “Developer” means any person, firm, corporation, partnership or limited liability company, other than a city and other than an agency, political subdivision or instrumentality of the state or a county when relating to a bioscience development district.

(g) “Eligible area” means a blighted area, conservation area, enterprise zone, intermodal transportation area, major tourism area or a major commercial entertainment and tourism area or bioscience development area.

(h) “Enterprise zone” means an area within a city that was designated as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107 through 12-17,113, and amendments thereto, prior to its repeal and the

conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of such city.

(i) “Environmental increment” means the increment determined pursuant to ~~subsection (b) of~~ K.S.A. 12-1771a(b), and amendments thereto.

(j) “Environmentally contaminated area” means an area of land having contaminated groundwater or soil which is deemed environmentally contaminated by the department of health and environment or the United States environmental protection agency.

(k) (1) “Feasibility study” means:

(A) A study which shows whether a redevelopment project’s or bioscience development project’s benefits and tax increment revenue and other available revenues under ~~subsection (a)(1) of~~ K.S.A. 12-1774(a)(1), and amendments thereto, are expected to exceed or be sufficient to pay for the redevelopment or bioscience development project costs; and

(B) the effect, if any, the redevelopment project costs or bioscience development project will have on any outstanding special obligation bonds payable from the revenues described in ~~subsection (a)(1)(D) of~~ K.S.A. 12-1774(a)(1)(D), and amendments thereto.

(2) For a redevelopment project or bioscience project financed by bonds payable from revenues described in ~~subsection (a)(1)(D) of~~ K.S.A. 12-1774(a)(1)(D), and amendments thereto, the feasibility study must also include:

(A) A statement of how the taxes obtained from the project will contribute significantly to the economic development of the jurisdiction in which the project is located;

(B) a statement concerning whether a portion of the local sales and use taxes are pledged to other uses and are unavailable as revenue for the redevelopment project. If a portion of local sales and use taxes is so committed, the applicant shall describe the following:

(i) The percentage of sales and use taxes collected that are so committed; and

(ii) the date or dates on which the local sales and use taxes pledged to other uses can be pledged for repayment of special obligation bonds;

(C) an anticipated principal and interest payment schedule on the bonds;

(D) following approval of the redevelopment plan, the feasibility study shall be supplemented to include a copy of the minutes of the governing body meeting or meetings of any city whose bonding authority will be utilized in the project, evidencing that a redevelopment plan has been created, discussed, and adopted by the city in a regularly scheduled open public meeting; and

(E) the failure to include all information enumerated in this subsection in the feasibility study for a redevelopment or bioscience project shall not affect the validity of bonds issued pursuant to this act.

(l) “Major tourism area” means an area for which the secretary has made a finding the capital improvements costing not less than \$100,000,000 will be built in the state to construct an auto race track facility.

(m) “Real property taxes” means all taxes levied on an ad valorem basis upon land and improvements thereon, except that when relating to a bioscience development district, as defined in this section, “real property taxes” does not include property taxes levied for schools, pursuant to ~~K.S.A. 72-6431~~ *section 11*, and amendments thereto.

(n) “Redevelopment project area” means an area designated by a city within a redevelopment district or, if the redevelopment district is established for an intermodal transportation area, an area designated by a city within or outside of the redevelopment district.

(o) “Redevelopment project costs” means: (1) Those costs necessary to implement a redevelopment project plan or a bioscience development project plan, including costs incurred for:

- (A) Acquisition of property within the redevelopment project area;
- (B) payment of relocation assistance pursuant to a relocation assistance plan as provided in K.S.A. 12-1777, and amendments thereto;
- (C) site preparation including utility relocations;
- (D) sanitary and storm sewers and lift stations;
- (E) drainage conduits, channels, levees and river walk canal facilities;
- (F) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;
- (G) street light fixtures, connection and facilities;
- (H) underground gas, water, heating and electrical services and connections located within the public right-of-way;
- (I) sidewalks and pedestrian underpasses or overpasses;
- (J) drives and driveway approaches located within the public right-of-way;
- (K) water mains and extensions;
- (L) plazas and arcades;
- (M) major multi-sport athletic complex;
- (N) museum facility;
- (O) parking facilities including multilevel parking facilities;
- (P) landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities;
- (Q) related expenses to redevelop and finance the redevelopment project;
- (R) for purposes of an incubator project, such costs shall also include wet lab equipment including hoods, lab tables, heavy water equipment and all such other equipment found to be necessary or appropriate for a commercial incubator wet lab facility by the city in its resolution establishing such redevelopment district or a bioscience development district;
- (S) costs for the acquisition of land for and the construction and in-

stallation of publicly-owned infrastructure improvements which serve an intermodal transportation area and are located outside of a redevelopment district; and

(T) costs for infrastructure located outside the redevelopment district but contiguous to any portion of the redevelopment district and such infrastructure is necessary for the implementation of the redevelopment plan as determined by the city.

(2) Redevelopment project costs shall not include: (A) Costs incurred in connection with the construction of buildings or other structures to be owned by or leased to a developer, however, the “redevelopment project costs” shall include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility or a multilevel parking facility.

(B) In addition, for a redevelopment project financed with special obligation bonds payable from the revenues described in ~~subsection (a)(1)(D) of K.S.A. 12-1774(a)(1)(D)~~, and amendments thereto, redevelopment project costs shall not include:

(i) Fees and commissions paid to developers, real estate agents, financial advisors or any other consultants who represent the developers or any other businesses considering locating in or located in a redevelopment district;

(ii) salaries for local government employees;

(iii) moving expenses for employees of the businesses locating within the redevelopment district;

(iv) property taxes for businesses that locate in the redevelopment district;

(v) lobbying costs;

(vi) a bond origination fee charged by the city pursuant to K.S.A. 12-1742, and amendments thereto;

(vii) any personal property, as defined in K.S.A. 79-102, and amendments thereto; and

(viii) travel, entertainment and hospitality.

(p) “Redevelopment district” means the specific area declared to be an eligible area in which the city may develop one or more redevelopment projects.

(q) “Redevelopment district plan” or “district plan” means the preliminary plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each redevelopment project area or, if the redevelopment district is established for an intermodal transportation area, in or outside of the redevelopment district.

(r) “Redevelopment project” means the approved project to implement a project plan for the development of the established redevelopment district.

(s) “Redevelopment project plan” means the plan adopted by a municipality for the development of a redevelopment project or projects which conforms with K.S.A. 12-1772, and amendments thereto, in a redevelopment district.

(t) “Substantial change” means, as applicable, a change wherein the proposed plan or plans differ substantially from the intended purpose for which the district plan or project plan was approved.

(u) “Tax increment” means that amount of real property taxes collected from real property located within the redevelopment district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(v) “Taxing subdivision” means the county, city, unified school district and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created redevelopment district including a bioscience development district.

(w) “River walk canal facilities” means a canal and related water features which flows through a redevelopment district and facilities related or contiguous thereto, including, but not limited to pedestrian walkways and promenades, landscaping and parking facilities.

(x) “Major commercial entertainment and tourism area” may include, but not be limited to, a major multi-sport athletic complex.

(y) “Major multi-sport athletic complex” means an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other developments including grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.

(z) “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.

(aa) “Bioscience development area” means an area that:

(1) Is or shall be owned, operated, or leased by, or otherwise under the control of the Kansas bioscience authority;

(2) is or shall be used and maintained by a bioscience company; or

(3) includes a bioscience facility.

(bb) “Bioscience development district” means the specific area, cre-

ated under K.S.A. 12-1771, and amendments thereto, where one or more bioscience development projects may be undertaken.

(cc) “Bioscience development project” means an approved project to implement a project plan in a bioscience development district.

(dd) “Bioscience development project plan” means the plan adopted by the authority for a bioscience development project pursuant to K.S.A. 12-1772, and amendments thereto, in a bioscience development district.

(ee) “Bioscience facility” means real property and all improvements thereof used to conduct bioscience research, including, without limitation, laboratory space, incubator space, office space and any and all facilities directly related and necessary to the operation of a bioscience facility.

(ff) “Bioscience project area” means an area designated by the authority within a bioscience development district.

(gg) “Biotechnology” means those fields focusing on technological developments in such areas as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing, bioinformatics and future developments associated with biotechnology.

(hh) “Board” means the board of directors of the Kansas bioscience authority.

(ii) “Life sciences” means the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry, physiology and any future advances associated with life sciences.

(jj) “Revenue increase” means that amount of real property taxes collected from real property located within the bioscience development district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(kk) “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.

(ll) “Floodplain increment” means the increment determined pursuant to ~~subsection (b) of~~ K.S.A. 2014 Supp. 12-1771e(b), and amendments thereto.

(mm) “100-year floodplain area” means an area of land existing in a 100-year floodplain as determined by either an engineering study of a Kansas certified engineer or by the United States federal emergency management agency.

(nn) “Major motorsports complex” means a complex in Shawnee county that is utilized for the hosting of competitions involving motor vehicles, including, but not limited to, automobiles, motorcycles or other self-propelled vehicles other than a motorized bicycle or motorized

wheelchair. Such project may include racetracks, all facilities directly related and necessary to the operation of a motorsports complex, including, but not limited to, parking lots, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility.

(oo) “Intermodal transportation area” means an area of not less than 800 acres to be developed primarily to handle the transfer, storage and distribution of freight through railway and trucking operations.

(pp) “Museum facility” means a separate newly-constructed museum building and facilities directly related and necessary to the operation thereof, including gift shops and restaurant facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility. The museum facility shall be owned by the state, a city, county, other political subdivision of the state or a non-profit corporation, shall be managed by the state, a city, county, other political subdivision of the state or a non-profit corporation and may not be leased to any developer and shall not be located within any retail or commercial building.

Sec. 26. From and after July 1, 2015, K.S.A. 12-1775a is hereby amended to read as follows: 12-1775a. (a) Prior to December 31, 1996, the governing body of each city which, pursuant to K.S.A. 12-1771, and amendments thereto, has established a redevelopment district prior to July 1, 1996, shall certify to the director of accounts and reports the amount equal to the amount of revenue realized from ad valorem taxes imposed pursuant to ~~K.S.A. 72-6431~~ *section 11*, and amendments thereto, within such redevelopment district. Prior to February 1, 1997, and annually on that date thereafter, the governing body of each such city shall certify to the director of accounts and reports an amount equal to the amount by which revenues realized from such ad valorem taxes imposed in such redevelopment district are estimated to be reduced for the ensuing calendar year due to legislative changes in the statewide school finance formula. Prior to March 1 of each year, the director of accounts and reports shall certify to the state treasurer each amount certified by the governing bodies of cities under this section for the ensuing calendar year and shall transfer from the state general fund to the city tax increment financing revenue fund the aggregate of all amounts so certified. Prior to April 15 of each year, the state treasurer shall pay from the city tax increment financing revenue fund to each city certifying an amount to the director of accounts and reports under this section for the ensuing calendar year the amount so certified.

(b) There is hereby created the tax increment financing revenue replacement fund which shall be administered by the state treasurer. All

expenditures from the tax increment financing revenue replacement fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports pursuant to vouchers approved by the state treasurer or a person or persons designated by the state treasurer.

Sec. 27. From and after July 1, 2015, K.S.A. 2014 Supp. 12-1776a is hereby amended to read as follows: 12-1776a. (a) As used in this section:

(1) “School district” means any school district in which is located a redevelopment district for which bonds have been issued pursuant to K.S.A. 12-1770 et seq., and amendments thereto.

(2) “Base year assessed valuation,” “redevelopment district” and “redevelopment project” shall have the meanings ascribed thereto by K.S.A. 12-1770a, and amendments thereto.

(b) No later than November 1 of each year, the county clerk of each county shall certify to the state board of education the assessed valuation of any school district located within a redevelopment district in such county. For the purposes of this section and for determining the amount of state aid for school districts under K.S.A. ~~72-6434~~ and 75-2319, and amendments thereto, the base year assessed valuation of property within the boundaries of a redevelopment district shall be used when determining the assessed valuation of a school district until the bonds issued pursuant to K.S.A. 12-1770 et seq., and amendments thereto, to finance redevelopment projects in the redevelopment district have been retired.

Sec. 28. From and after July 1, 2015, K.S.A. 2014 Supp. 72-978 is hereby amended to read as follows: 72-978. (a) Each year, the state board of education shall determine the amount of state aid for the provision of special education and related services each school district shall receive for the ensuing school year. The amount of such state aid shall be computed by the state board as provided in this section. The state board shall:

(1) Determine the total amount of general fund and local option budgets of all school districts;

(2) subtract from the amount determined in ~~paragraph~~ *subsection (a)(1)* the total amount attributable to assignment of transportation weighting, program weighting, special education weighting and at-risk pupil weighting, *as those weightings were calculated under the school district finance and quality performance act, prior to its repeal*, to enrollment of all school districts;

(3) divide the remainder obtained in ~~paragraph~~ *subsection (a)(2)* by the total number of full-time equivalent pupils enrolled in all school districts on September 20;

(4) determine the total full-time equivalent enrollment of exceptional children receiving special education and related services provided by all school districts;

(5) multiply the amount of the quotient obtained in ~~paragraph~~ *sub-*

~~section (a)(3)~~ by the full-time equivalent enrollment determined in ~~paragraph subsection (a)(4)~~;

(6) determine the amount of federal funds received by all school districts for the provision of special education and related services;

(7) determine the amount of revenue received by all school districts rendered under contracts with the state institutions for the provisions of special education and related services by the state institution;

(8) add the amounts determined under ~~paragraphs subsections (a)(6)~~ and ~~(a)(7)~~ to the amount of the product obtained under ~~paragraph subsection (a)(5)~~;

(9) determine the total amount of expenditures of all school districts for the provision of special education and related services;

(10) subtract the amount of the sum obtained under ~~paragraph subsection (a)(8)~~ from the amount determined under ~~paragraph subsection (a)(9)~~; and

(11) multiply the remainder obtained under ~~paragraph subsection (a)(10)~~ by 92%.

The computed amount is the amount of state aid for the provision of special education and related services aid a school district is entitled to receive for the ensuing school year.

(b) Each school district shall be entitled to receive:

(1) Reimbursement for actual travel allowances paid to special teachers at not to exceed the rate specified under K.S.A. 75-3203, and amendments thereto, for each mile actually traveled during the school year in connection with duties in providing special education or related services for exceptional children; such reimbursement shall be computed by the state board by ascertaining the actual travel allowances paid to special teachers by the school district for the school year and shall be in an amount equal to 80% of such actual travel allowances;

(2) reimbursement in an amount equal to 80% of the actual travel expenses incurred for providing transportation for exceptional children to special education or related services; ~~such reimbursement shall not be paid if such child has been counted in determining the transportation weighting of the district under the provisions of the school district finance and quality performance act;~~

(3) reimbursement in an amount equal to 80% of the actual expenses incurred for the maintenance of an exceptional child at some place other than the residence of such child for the purpose of providing special education or related services; such reimbursement shall not exceed \$600 per exceptional child per school year; and

(4) (A) except for those school districts entitled to receive reimbursement under subsection (c) or (d), after subtracting the amounts of reimbursement under ~~paragraphs subsections (a)(1), (a)(2) and (a)(3) of subsection (a)~~ from the total amount appropriated for special education and related services under this act, an amount which bears the same

proportion to the remaining amount appropriated as the number of full-time equivalent special teachers who are qualified to provide special education or related services to exceptional children and are employed by the school district for approved special education or related services bears to the total number of such qualified full-time equivalent special teachers employed by all school districts for approved special education or related services.

(B) Each special teacher who is qualified to assist in the provision of special education or related services to exceptional children shall be counted as  $\frac{2}{3}$  full-time equivalent special teacher who is qualified to provide special education or related services to exceptional children.

(C) For purposes of this ~~paragraph~~ subsection (b)(4), a special teacher, qualified to assist in the provision of special education and related services to exceptional children, who assists in providing special education and related services to exceptional children at either the state school for the blind or the state school for the deaf and whose services are paid for by a school district pursuant to K.S.A. 76-1006 or 76-1102, and amendments thereto, shall be considered a special teacher of such school district.

(c) Each school district which has paid amounts for the provision of special education and related services under an interlocal agreement shall be entitled to receive reimbursement under subsection (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services under the interlocal agreement, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all school districts in the current school year who have entered into such interlocal agreement for provision of such special education and related services.

(d) Each contracting school district which has paid amounts for the provision of special education and related services as a member of a cooperative shall be entitled to receive reimbursement under subsection (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services by the cooperative, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all contracting school districts in the current school year by such cooperative for provision of such special education and related services.

(e) No time spent by a special teacher in connection with duties performed under a contract entered into by the Kansas juvenile correctional complex, the Atchison juvenile correctional facility, the Larned juvenile correctional facility, or the Topeka juvenile correctional facility and a

school district for the provision of special education services by such state institution shall be counted in making computations under this section.

*(f) There is hereby established in every school district a fund which shall be called the special education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. Notwithstanding any other provision of law, all moneys received by the school district from whatever source for special education shall be credited to the special education fund established by this section, except that: (1) Amounts of payments received by a school district under K.S.A. 72-979, and amendments thereto, and amounts of grants, if any, received by a school district under K.S.A. 72-983, and amendments thereto, shall be deposited in the general fund of the district and transferred to the special education fund; and (2) moneys received by a school district pursuant to lawful agreements made under K.S.A. 72-968, and amendments thereto, shall be credited to the special education fund established under the agreements.*

*(g) The expenses of a school district directly attributable to special education shall be paid from the special education fund and from special funds established under K.S.A. 72-968, and amendments thereto.*

*(h) Obligations of a school district pursuant to lawful agreements made under K.S.A. 72-968, and amendments thereto, shall be paid from the special education fund established by this section.*

Sec. 29. From and after July 1, 2015, K.S.A. 2014 Supp. 72-1046b is hereby amended to read as follows: 72-1046b. (a) As used in this section:

(1) “School district” means a school district organized and operating under the laws of this state and no part of which is located in Johnson county, Sedgwick county, Shawnee county or Wyandotte county.

(2) “Non-resident pupil” or “pupil” means a pupil who is enrolled and in attendance at a school located in a district in which such pupil is not a resident and who: (A) Lives 2½ or more miles from the attendance center the pupil would attend in the district in which the pupil resides and is not a resident of Johnson county, Sedgwick county, Shawnee county or Wyandotte county; or (B) is a member of the family of a pupil meeting the condition prescribed in subpart (A).

(3) “Member of the family” means a brother or sister of the whole or half blood or by adoption, a stepbrother or stepsister, and a foster brother or foster sister.

(b) The board of education of any school district may allow any pupil who is not a resident of the district to enroll in and attend school in such district. The board of education of such district may furnish or provide transportation to any non-resident pupil who is enrolled in and attending school in the district pursuant to this section. If the district agrees to furnish or provide transportation to a non-resident pupil, such transportation shall be furnished or provided until the end of the school year.

Prior to providing or furnishing transportation to a non-resident pupil, the district shall notify the board of education of the district in which the pupil resides that transportation will be furnished or provided.

(c) Pupils attending school in a school district in which the pupil does not reside pursuant to this section shall be counted as regularly enrolled in and attending school in the district where the pupil is enrolled for the purpose of computations, ~~except computation of transportation weighting, under the school district finance and quality performance act under the classroom learning assuring student success act, section 4 et seq., and amendments thereto,~~ and for the purposes of the statutory provisions contained in article 83 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto. Such non-resident pupil shall not be charged for the costs of attendance at school.

Sec. 30. From and after July 1, 2015, K.S.A. 2014 Supp. 72-1398 is hereby amended to read as follows: 72-1398. (a) The national board for professional teaching standards certification incentive program is hereby established for the purpose of rewarding teachers who have attained certification from the national board. Teachers who have attained certification from the national board shall be issued a master teacher's license by the state board of education. A master teacher's license shall be valid for 10 years and renewable thereafter every 10 years through compliance with continuing education and professional development requirements prescribed by the state board. Teachers who have attained certification from the national board and who are employed by a school district shall be paid an incentive bonus in the amount of \$1,000 each school year that the teacher remains employed by a school district and retains a valid master teacher's license.

(b) The board of education of each school district employing one or more national board certified teachers shall pay the incentive bonus to each such teacher in each school year that the teacher retains eligibility for such payment. Each board of education which has made payments of incentive bonuses to national board certified teachers under this subsection may file an application with the state board of education for state aid and shall certify to the state board the amount of such payments. The application and certification shall be on a form prescribed and furnished by the state board, shall contain such information as the state board shall require and shall be filed at the time specified by the state board.

(c) In each school year, each school district employing one or more national board certified teachers is entitled to receive from appropriations for the national board for professional teaching standards certification incentive program an amount which is equal to the amount certified to the state board of education in accordance with the provisions of subsection (b). The state board shall certify to the director of accounts and reports the amount due each school district. The director of accounts and

reports shall draw warrants on the state treasurer payable to the treasurer of each school district entitled to payment under this section upon vouchers approved by the state board.

(d) Moneys received by a board of education under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto*, and may be expended whether the same have been budgeted or not.

(e) The state board of education is authorized to provide scholarships of \$1,100 each to teachers who are accepted to participate in the national board for professional teaching standards program for initial certification. The state board of education is authorized to provide scholarships of \$500 each to teachers who are accepted to participate in the national board for professional teaching standards program for renewal of certification. Any teacher who has been accepted to participate in such program may file an application with the state board of education for a scholarship. The application shall be on a form prescribed and furnished by the state board, shall contain such information as the state board shall require and shall be filed at the time specified by the state board.

(f) As used in this section, the term “school district” means any school district organized and operating under the laws of this state.

Sec. 31. From and after July 1, 2015, K.S.A. 72-1414 is hereby amended to read as follows: 72-1414. (a) On or before January 1, 2001, the state board of education shall adopt rules and regulations for the administration of mentor teacher programs and shall:

- (1) Establish standards and criteria for evaluating and approving mentor teacher programs and applications of school districts for grants;
- (2) evaluate and approve mentor teacher programs;
- (3) establish criteria for determination of exemplary teaching ability of certificated teachers for qualification as mentor teachers;
- (4) prescribe guidelines for the selection by boards of education of mentor teachers and for the provision by boards of education of training programs for mentor teachers;
- (5) be responsible for awarding grants to school districts; and
- (6) request of and receive from each school district which is awarded a grant for maintenance of a mentor teacher program reports containing information with regard to the effectiveness of the program.

(b) Subject to the availability of appropriations for mentor teacher programs maintained by school districts, and within the limits of any such appropriations, the state board of education shall determine the amount of grants to be awarded school districts by multiplying an amount not to exceed \$1,000 by the number of mentor teachers participating in the program maintained by a school district. The product is the amount of

the grant to be awarded to the district. Upon receipt of a grant of state moneys for maintenance of a mentor teacher program, the amount of the grant shall be deposited in the general fund of the school district. Moneys deposited in the general fund of a school district under this subsection shall be considered reimbursements for the purpose of the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto*. The full amount of the grant shall be allocated among the mentor teachers employed by the school district so as to provide a mentor teacher with an annual stipend in an amount not to exceed \$1,000. Such annual stipend shall be over and above the regular salary to which the mentor teacher is entitled for the school year.

Sec. 32. From and after July 1, 2015, K.S.A. 2014 Supp. 72-1923 is hereby amended to read as follows: 72-1923. (a) Except as provided in K.S.A. 2014 Supp. 72-1925, and amendments thereto, the board of education of any school district may apply to the state board for a grant of authority to operate such school district as a public innovative district. The application shall be submitted in the form and manner prescribed by the state board, and shall be submitted not later than December 1 of the school year preceding the school year in which the school district intends to operate as a public innovative district.

(b) The application shall include the following:

- (1) A description of the educational programs of the public innovative district;
- (2) a description of the interest and support for partnerships between the public innovative district, parents and the community;
- (3) the specific goals and the measurable pupil outcomes to be obtained by operating as a public innovative district; and
- (4) an explanation of how pupil performance in achieving the specified outcomes will be measured, evaluated and reported.

(c) (1) Within 90 days from the date such application is submitted, the state board shall review the application to determine compliance with this section, and shall approve or deny such application on or before the conclusion of such 90-day period. If the application is determined to be in compliance with this section, the state board shall approve such application and grant the school district authority to operate as a public innovative district. Notification of such approval shall be sent to the board of education of such school district within 10 days after such decision.

(2) If the state board determines such application is not in compliance with either this section, or K.S.A. 2014 Supp. 72-1925, and amendments thereto, the state board shall deny such application. Notification of such denial shall be sent to the board of education of such school district within 10 days after such decision and shall specify the reasons therefor. Within 30 days from the date such notification is sent, the board of education of

such school district may submit a request to the state board for reconsideration of the application and may submit an amended application with such request. The state board shall act on the request for reconsideration within 60 days of receipt of such request.

(d) A public innovative district shall:

(1) Not charge tuition for any of the pupils residing within the public innovative district;

(2) participate in all Kansas math and reading assessments applicable to such public innovative district, or an alternative assessment program for measuring student progress as determined by the board of education;

(3) abide by all financial and auditing requirements that are applicable to school districts, except that a public innovative district may use generally accepted accounting principles;

(4) comply with all applicable health, safety and access laws; and

(5) comply with all statements set forth in the application submitted pursuant to subsection (a).

(e) (1) Except as otherwise provided in K.S.A. 2014 Supp. 72-1921 through 72-1930, and amendments thereto, or as required by the board of education of the public innovative district, a public innovative district shall be exempt from all laws and rules and regulations that are applicable to school districts.

(2) A public innovative district shall be subject to the special education for exceptional children act, the virtual school act, the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto*, the provisions of K.S.A. 72-8801 et seq., and amendments thereto, all laws governing the issuance of general obligation bonds by school districts, the provisions of K.S.A. 74-4901 et seq., and amendments thereto, and all laws governing the election of members of the board of education, the open meetings act as provided in K.S.A. 75-4317 et seq., and amendments thereto, and the open records act as provided in K.S.A. 45-215 et seq., and amendments thereto.

Sec. 33. From and after July 1, 2015, K.S.A. 2014 Supp. 72-3607 is hereby amended to read as follows: 72-3607. ~~(a)~~ There is hereby established in every school district which has developed and is operating a parent education program for which grants are awarded under this act a fund which shall be called the parent education program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. Notwithstanding any other provision of law, all moneys received by the school district from whatever source for a parent education program operated under this act shall be credited to the fund established by this section. Amounts deposited in the parent education program fund shall ~~may~~ be used ~~exclusively~~ for the payment of expenses

directly attributable to the program *or may be transferred to the general fund of the school district as approved by the board of education.*

~~(b) Any unencumbered balance of moneys remaining in the parent education program fund of a school district on June 30 of the current school year, may be expended in the school year that immediately succeeds such date by the school district for general operating expenses of the school district as approved by the board of education.~~

Sec. 34. From and after July 1, 2015, K.S.A. 2014 Supp. 72-3711 is hereby amended to read as follows: 72-3711. K.S.A. 2014 Supp. 72-3711 through ~~72-3716~~ 72-3715, and amendments thereto, shall be known and may be cited as the virtual school act.

Sec. 35. From and after July 1, 2015, K.S.A. 2014 Supp. 72-3712 is hereby amended to read as follows: 72-3712. As used in the virtual school act:

(a) “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.

(b) “School district” means any school district which offers a virtual school.

(c) Except as provided by the virtual school act, words and phrases shall have the meanings ascribed thereto in ~~the school district finance and quality performance act section 5, and amendments thereto.~~

Sec. 36. From and after July 1, 2015, K.S.A. 2014 Supp. 72-3715 is hereby amended to read as follows: 72-3715. (a) In order to be included in the full-time equivalent enrollment of a virtual school, a pupil shall be in attendance at the virtual school on: (1) A single school day on or before September 19 of each school year; and (2) on a single school day on or after September 20, but before October 4 of each school year.

(b) A school district which offers a virtual school shall determine the full-time equivalent enrollment of each pupil enrolled in the virtual school on September 20 of each school year as follows:

(1) Determine the number of hours the pupil was in attendance on a single school day on or before September 19 of each school year;

(2) determine the number of hours the pupil was in attendance on a single school day on or after September 20, but before October 4 of each school year;

(3) add the numbers obtained under paragraphs (1) and (2);

(4) divide the sum obtained under paragraph (3) by 12. The quotient is the full-time equivalent enrollment of the pupil.

(c) The school days on which a district determines the full-time equivalent enrollment of a pupil under paragraphs (1) and (2) of subsection ~~subsections~~ (b)(1) and (2) shall be the school days on which the pupil has the highest number of hours of attendance at the virtual school. No more than six hours of attendance may be counted in a single school day. Attendance may be shown by a pupil's on-line activity or entries in the pupil's virtual school journal or log of activities.

~~(d)(1) Subject to the availability of appropriations for virtual school state aid and within the limits of any such appropriations, each school year a school district which offers a virtual school shall be entitled to receive virtual school state aid.~~

~~(2)—The state board of education shall determine the amount of virtual school state aid a school district is entitled to receive as follows:~~

~~(A)—Multiply the full-time equivalent enrollment of the virtual school by an amount equal to 105% of the amount of base state aid per pupil;~~

~~(B)—multiply the full-time equivalent enrollment of nonproficient at-risk pupils enrolled in an approved at-risk program offered by the virtual school, if any, by an amount equal to 25% of the amount of base state aid per pupil;~~

~~(C)—add any amount determined under K.S.A. 2014 Supp. 72-3716; and amendments thereto; and~~

~~(D)—add the amounts obtained under subparagraphs (A) through (C). The sum is the amount of the virtual school state aid to which the school district is entitled.~~

~~(3)—(1) For school year 2015-2016:~~

~~(A) Determine the number of pupils enrolled in virtual school on a full-time basis, excluding those pupils who are over 18 years of age, and multiply the total number of such pupils by \$5,000;~~

~~(B) determine the full-time equivalent enrollment of pupils enrolled in virtual school on a part-time basis, excluding those pupils who are over 18 years of age, and multiply the total full-time equivalent enrollment of such pupils by \$4,045;~~

~~(C) for pupils enrolled in a virtual school who are over 18 years of age, determine the number of one-hour credit courses such pupils have passed and multiply the total number of such courses by \$933; and~~

~~(D) add the amounts calculated under subsections (d)(1)(A) through (d)(1)(C). The resulting sum is the amount of virtual school state aid the school district shall receive.~~

~~(2) For school year 2016-2017:~~

~~(A) Determine the number of pupils enrolled in virtual school on a full-time basis, excluding those pupils who are over 18 years of age, and multiply the total number of such pupils by \$5,600;~~

~~(B) determine the full-time equivalent enrollment of pupils enrolled~~

*in virtual school on a part-time basis, excluding those pupils who are over 18 years of age, and multiply the total full-time equivalent enrollment of such pupils by \$1,700;*

*(C) for pupils enrolled in a virtual school who are over 18 years of age, determine the number of one-hour credit courses such pupils have passed and multiply the total number of such courses by \$933; and*

*(D) add the amounts calculated under subsections (d)(2)(A) through (d)(2)(C). The resulting sum is the amount of virtual school state aid the school district shall receive.*

*(3) For purposes of this subsection:*

*(A) "Full-time" means attendance in a virtual school for no less than six hours as determined pursuant to subsection (b).*

*(B) "Part-time" means attendance in a virtual school for less than six hours as determined pursuant to subsection (b).*

*(e) There is hereby established in every school district a fund which shall be called the virtual school fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. ~~Moneys received as virtual school state aid shall be deposited in the general fund of the school district and transferred to the virtual school fund of the district.~~ The expenses of a school district directly attributable to virtual schools offered by a school district ~~shall~~ *may* be paid from the virtual school fund. The cost of an advance placement course provided to a pupil ~~described in subsection (d)(2)(D) by a virtual school~~ shall be paid by the virtual school. *Amounts deposited in the virtual school fund may be transferred to the general fund of the school district as approved by the board of education.**

Any balance remaining in the virtual school fund at the end of the budget year shall be carried forward into the virtual school fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto.

~~Any unencumbered balance of moneys remaining in the virtual school fund of a school district on June 30 of the current school year, may be expended in the school year that immediately succeeds such date by the school district for general operating expenses of the school district as approved by the board of education.~~

In preparing the budget of such school district, the amounts credited to and the amount on hand in the virtual school fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

~~(e) For the purposes of this section, a pupil enrolled in a virtual school who is not a resident of the state of Kansas shall not be counted in the full-time equivalent enrollment of the virtual school.~~

Sec. 37. From and after July 1, 2015, K.S.A. 2014 Supp. 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 provisions of the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto*, apply to the school district. ~~As applied to the school district, the terms 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. 38. K.S.A. 2014 Supp. 72-6434 is hereby amended to read as follows: 72-6434. (a) ~~In each school year~~ *For school year 2014-2015*, each district that has adopted a local option budget is eligible for entitlement to an amount of supplemental general state aid. Except as provided by K.S.A. 2014 Supp. 72-6434b, and amendments thereto, entitlement of a district to supplemental general state aid shall be determined by the state board as provided in this subsection. The state board shall:

(1) Determine the amount of the assessed valuation per pupil in the preceding school year of each district in the state;

(2) rank the districts from low to high on the basis of the amounts of assessed valuation per pupil determined under *subsection (a)(1)*;

(3) identify the amount of the assessed valuation per pupil located at the 81.2 percentile of the amounts ranked under *subsection (a)(2)*;

(4) divide the assessed valuation per pupil of the district ~~in the preceding school year as determined under subsection (a)(1)~~ by the amount identified under *subsection (a)(3)*;

(5) (A) ~~subtract the ratio obtained under (4) from 1.0. If the resulting~~

~~ratio equals or exceeds 1.0, the eligibility of the district for entitlement to supplemental general state aid shall lapse. If the resulting ratio is less than 1.0, the district is entitled to receive supplemental general state aid in an amount which shall be determined by the state board by multiplying the amount of the local option budget of the district by such ratio. The product is the amount of supplemental general state aid the district is entitled to receive for the school year. if the quotient obtained under subsection (a)(4) is less than one, subtract the quotient obtained under subsection (a)(4) from one, and multiply such difference by the amount of the local option budget of the school district; or~~

~~(B) if the quotient obtained under subsection (a)(4) equals or exceeds one, the school district shall not be entitled to receive supplemental general state aid; and~~

~~(6) determine the amount of supplemental general state aid for each school district eligible to receive such state aid as follows:~~

~~(A) For those school districts ranked in the lowest quintile of those school districts eligible to receive supplemental general state aid under subsection (a)(5), multiply the product calculated under subsection (a)(5)(A) by 97%;~~

~~(B) for those school districts ranked in the second lowest quintile of those school districts eligible to receive supplemental general state aid under subsection (a)(5), multiply the product calculated under subsection (a)(5)(A) by 95%;~~

~~(C) for those school districts ranked in the third lowest quintile of those school districts eligible to receive supplemental general state aid under subsection (a)(5), multiply the product calculated under subsection (a)(5)(A) by 92%;~~

~~(D) for those school districts ranked in the second highest quintile of those school districts eligible to receive supplemental general state aid under subsection (a)(5), multiply the product calculated under subsection (a)(5)(A) by 82%; and~~

~~(E) for those school districts ranked in the highest quintile of those school districts eligible to receive supplemental general state aid under subsection (a)(5), multiply the product calculated under subsection (a)(5)(A) by 72%.~~

(b) If the amount of appropriations for supplemental general state aid is less than the amount each district is entitled to receive for the school year, the state board shall prorate the amount appropriated among the districts in proportion to the amount each district is entitled to receive.

(c) The state board shall prescribe the dates upon which the distribution of payments of supplemental general state aid to school districts shall be due. Payments of supplemental general state aid shall be distributed to districts on the dates prescribed by the state board. The state board shall certify to the director of accounts and reports the amount due each district, and the director of accounts and reports shall draw a warrant

on the state treasurer payable to the treasurer of the district. Upon receipt of the warrant, the treasurer of the district shall credit the amount thereof to the supplemental general fund of the district to be used for the purposes of such fund.

(d) If any amount of supplemental 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 supplemental 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.

(e) (1) Except as provided by paragraph (2), moneys received as supplemental general state aid shall be used to meet the requirements under the school performance accreditation system adopted by the state board, to provide programs and services required by law and to improve student performance.

(2) Amounts of supplemental general state aid 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%.

(f) For the purposes of determining the total amount of state moneys paid to school districts, all moneys appropriated as supplemental general state aid shall be deemed to be state moneys for educational and support services for school districts.

(g) *For school year 2014-2015, for those school districts whose total assessed valuation for school year 2015-2016 is less than such district's total assessed valuation for school year 2014-2015, and the difference in total assessed valuation between school year 2014-2015 and school year 2015-2016 is an amount that is greater than 25% of the total assessed valuation of such district for school year 2014-2015, and such reduction in total assessed valuation is the direct result of the classification of tangible personal property within such district for property tax purposes pursuant to K.S.A. 2014 Supp. 79-507, and amendments thereto, the assessed valuation per pupil for purposes of determining supplemental general state aid shall be based on such school district's total assessed valuation for school year 2015-2016.*

Sec. 39. K.S.A. 2014 Supp. 72-6460 is hereby amended to read as follows: 72-6460. (a) For school year ~~2013-2014~~ 2014-2015, and each school year thereafter, ~~subject to any limitations as provided in this act,~~ any school district may expend the unencumbered balance of the moneys

held in the at-risk education fund, as provided in K.S.A. 76-6414a, and amendments thereto, bilingual education fund, as provided in K.S.A. 72-9509, and amendments thereto, contingency reserve fund, as provided in K.S.A. 72-6426, and amendments thereto, driver training fund, as provided in K.S.A. 72-6423, and amendments thereto, parent education program fund, as provided in K.S.A. 72-3607, and amendments thereto, pre-school-aged at-risk education fund, as provided in K.S.A. 72-6414b, and amendments thereto, professional development fund, as provided in K.S.A. 72-9609, and amendments thereto, summer program fund, as provided in K.S.A. 72-8237, and amendments thereto, textbook and student materials revolving fund, as provided in K.S.A. 72-8250, and amendments thereto, special education fund, as provided in K.S.A. 72-965 and 72-6420, and amendments thereto, virtual school fund, as provided in K.S.A. 72-3715, and amendments thereto, and vocational education fund, as provided in K.S.A. 72-6421, and amendments thereto, to pay for general operating expenses of the district out of the general fund as approved by the board of education of such district.

The board of education of a school district shall consider the use of such funds in the following order of priority:

- (1) At-risk education fund, bilingual education fund, contingency reserve fund, driver training fund, parent education program fund, pre-school-aged at-risk education fund, professional development fund, summer program fund, virtual school fund and vocational education fund;
- (2) textbook and student materials revolving fund; and
- (3) special education fund.

The board of education of a school district shall not be limited to the order of priority as listed in this subsection if the board so chooses. The board of education of a school district shall not be required to use the total amount of the unencumbered balance of moneys in a fund before using the unencumbered balance of moneys in another fund.

~~(b) The amount of money expended by a school district in school year 2013-2014, and each school year thereafter, from the unencumbered balance of moneys in the funds under subsection (a) of this section shall not exceed, in the aggregate, an amount determined by the state board of education. Such amount shall be determined by the state board as follows:~~

- ~~(1) Determine the adjusted enrollment of the district, excluding special education and related services weighting, for the current school year;~~
- ~~(2) multiply the adjusted enrollment determined under paragraph (1) by \$250. The product is the aggregate amount of moneys that may be expended by a school district in the current school year from the unencumbered balance of moneys in the funds under subsection (a) of this section.~~

~~(c) It is the public policy goal of the state of Kansas that at least 65% of the aggregate of all unencumbered balances authorized to be expended for general operating expenses pursuant to subsection (a) shall be ex-~~

pended in the classroom or for instruction, as provided in K.S.A. 2014 Supp. 72-64c01, and amendments thereto.

~~(d)~~(c) The superintendent appointed by the board of education of each school district under K.S.A. 72-8202b, and amendments thereto, shall report the unencumbered balance of moneys in each fund listed in subsection (a) to the board of education in July of each year at the meeting described in K.S.A. 72-8205, and amendments thereto, and to the state board of education on or before July 15 of such year.

Sec. 40. From and after July 1, 2015, K.S.A. 2014 Supp. 72-64b01 is hereby amended to read as follows: 72-64b01. (a) No school district shall expend, use or transfer any moneys from the general fund of the district for the purpose of engaging in or supporting in any manner any litigation by the school district or any person, association, corporation or other entity against the state of Kansas, the state board of education, the state department of education, other state agency or any state officer or employee regarding ~~the school district finance and quality performance act or any other~~ any law concerning school finance. No such moneys shall be paid, donated or otherwise provided to any person, association, corporation or other entity and used for the purpose of any such litigation.

(b) Nothing in ~~K.S.A. 72-6433 or this section, and amendments thereto,~~ shall be construed as prohibiting the expenditure, use or transfer of moneys from the ~~supplemental general fund~~ *proceeds of any tax levied by a school district pursuant to section 13, and amendments thereto,* for the purposes specified in subsection (a).

Sec. 41. From and after July 1, 2015, K.S.A. 2014 Supp. 72-64c03 is hereby amended to read as follows: 72-64c03. The appropriation of moneys necessary to pay general state aid and supplemental general state aid under the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto,* and state aid for the provision of special education and related services under the special education for exceptional children act shall be given first priority in the legislative budgeting process and shall be paid first from existing state revenues.

Sec. 42. From and after July 1, 2015, K.S.A. 2014 Supp. 72-64c05 is hereby amended to read as follows: 72-64c05. 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. 2014 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.~~ *classroom learning assuring student success act, section 4 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. 2014 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. 2014 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 pos-

tsecondary 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.

Sec. 43. From and after July 1, 2015, K.S.A. 72-6622 is hereby amended to read as follows: 72-6622. In the event that all of the property acquired by any two cities under the provisions of K.S.A. 3-404 et seq., *and amendments thereto*, is included within the territory of a unified school district in which only one of such cities is located:

(a) One-half of the assessed valuation of such property shall be assigned to each of the two school districts in which such cities are located for the purposes of determining the assessed valuation of each district for ~~(1) entitlement to supplemental general state aid under the school district finance and quality performance act, and (2) entitlement to payment from the school district capital improvements fund;~~

(b) The revenue to be received by each district under subsection (c) shall be used as a receipt by such district in computing its ad valorem tax requirement for each tax levy fund; and

(c) Such property shall be subject to taxation for school purposes at a rate equal to the aggregate of all rates imposed for school purposes upon property located within the school district in which such property is located, but one-half of the proceeds derived from such levy shall be allocated to each of the two school districts in which such cities are located.

Sec. 44. From and after July 1, 2015, K.S.A. 2014 Supp. 72-6624 is hereby amended to read as follows: 72-6624. (a) As used in this section:

(1) "School district" means unified school district No. 404, unified school district No. 493, unified school district No. 499 and unified school district No. 508.

(2) "Property" means any property, and improvements thereon, comprising a racetrack gaming facility or lottery gaming facility under the Kansas expanded lottery act located in Cherokee county.

(3) "State aid" means general state aid, ~~supplemental general state aid,~~ capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts under the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto*, or other

law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

(b) For the purposes of computing the assessed valuation of school districts for the payment, distribution or allocation of state aid and the levying of school taxes,  $\frac{1}{4}$  of the assessed valuation of such property shall be assigned to each of the school districts.

(c) The provisions of this section shall not apply if the property is not or ceases to be used as a racetrack gaming facility or lottery gaming facility under the Kansas expanded lottery act.

Sec. 45. From and after July 1, 2015, K.S.A. 2014 Supp. 72-6625 is hereby amended to read as follows: 72-6625. (a) As used in this section:

(1) "School district" means unified school district No. 507 and unified school district No. 374.

(2) "Property" means the following described property, and improvements thereon, comprised of 1,120 acres, more or less, located in Haskell county: All of Section 34, Township 29 South, Range 33 West and the West  $\frac{1}{2}$  of Section 3, Township 30 South, Range 33 West and the North-east Quarter of Section 3, Township 30 South, Range 33 West.

(3) "State aid" means general state aid, ~~supplemental general state aid~~, capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts under the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto*, or other law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

(b) For the purposes of computing the assessed valuation of school districts for the payment, distribution or allocation of state aid and the levying of school taxes,  $\frac{1}{2}$  of the assessed valuation of such property shall be assigned to each of the school districts.

(c) The provisions of this section shall not apply if the property is not or ceases to be used for the production of ethanol.

Sec. 46. From and after July 1, 2015, K.S.A. 72-6757 is hereby amended to read as follows: 72-6757. (a) As used in this section:

(1) "Receiving school district" means a school district of nonresidence of a pupil who attends school in such school district.

(2) "Sending school district" means a school district of residence of a pupil who attends school in a school district not of the pupil's residence.

(b) The board of education of any school district may make and enter into contracts with the board of education of any receiving school district located in this state for the purpose of providing for the attendance of pupils at school in the receiving school district.

(c) The board of education of any school district may make and enter into contracts with the governing authority of any accredited school district located in another state for the purpose of providing for the attend-

ance of pupils from this state at school in such other state or for the attendance of pupils from such other state at school in this state.

(d) Pupils attending school in a receiving school district in accordance with a contract authorized by this section and made and entered into by such receiving school district with a sending school district located in this state shall be counted as regularly enrolled in and attending school in the sending school district for the purpose of computations under the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto.*

(e) Any contract made and entered into under authority of this section is subject to the following conditions:

(1) The contract shall be for the benefit of pupils who reside at inconvenient or unreasonable distances from the schools maintained by the sending school district or for pupils who, for any other reason deemed sufficient by the board of education of the sending school district, should attend school in a receiving school district;

(2) the contract shall make provision for the payment of tuition by the sending school district to the receiving school district;

(3) if a sending school district is located in this state and the receiving school district is located in another state, the amount of tuition provided to be paid for the attendance of a pupil or pupils at school in the receiving school district shall not exceed  $\frac{1}{2}$  of the amount of the budget per pupil of the sending school district under the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto*, for the current school year; and

(4) the contract shall make provision for transportation of pupils to and from the school attended on every school day.

(f) Amounts received pursuant to contracts made and entered into under authority of this section by a school district located in this state for enrollment and attendance of pupils at school in regular educational programs shall be deposited in the general fund of the school district.

(g) The provisions of subsection (e)(3) do not apply to unified school district No. 104, Jewell county.

(h) The provisions of this section do not apply to contracts made and entered into under authority of the special education for exceptional children act.

(i) The provisions of this section are deemed to be alternative to the provisions of K.S.A. 72-8233, and amendments thereto, and no procedure or authorization under K.S.A. 72-8233, and amendments thereto, shall be limited by the provisions of this section.

Sec. 47. From and after July 1, 2015, K.S.A. 2014 Supp. 72-67,115 is hereby amended to read as follows: 72-67,115. (a) The board of education of any school district may:

(1) Offer and teach courses and conduct preschool programs for children under the age of eligibility to attend kindergarten.

(2) Enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of such preschool programs.

(3) Contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of such preschool programs.

(4) Prescribe and collect fees for providing such preschool programs.

(b) Fees for providing preschool programs shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the preschool programs. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto*, and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.

Sec. 48. From and after July 1, 2015, K.S.A. 2014 Supp. 72-7535 is hereby amended to read as follows: 72-7535. (a) In order to equip students with the knowledge and skills needed to become self-supporting and to enable students to make critical decisions regarding personal finances, the state board of education shall authorize and assist in the implementation of programs on teaching personal financial literacy.

(b) The state board of education shall develop a curriculum, materials and guidelines that local boards of education and governing authorities of accredited nonpublic schools may use in implementing the program of instruction on personal financial literacy. The state board of education shall adopt a glossary of personal financial literacy terms which shall be used by school districts when implementing the program on personal financial literacy.

(c) The state board of education shall develop state curriculum standards for personal financial literacy, for all grade levels, within the existing mathematics curriculum or another appropriate subject-matter curriculum.

(d) The state board of education shall encourage school districts when selecting textbooks for mathematics, economics, family and consumer science, accounting or other appropriate courses, to select those textbooks which contain substantive provisions on personal finance, including personal budgeting, credit, debt management and other topics concerning personal financial literacy.

(e) The state board of education shall include questions relating to

personal financial literacy in the statewide assessments for mathematics or social studies required under ~~K.S.A. 72-6439~~ *section 20*, and amendments thereto. When the statewide assessments for mathematics or social studies are reviewed or rewritten, the state board of education shall examine the questions relating to personal financial literacy and rewrite such questions in order to determine if programs on personal financial literacy are equipping students with the knowledge and skills needed to become self-supporting and enabling students to make critical decisions regarding personal finances.

Sec. 49. From and after July 1, 2015, K.S.A. 2014 Supp. 72-8187 is hereby amended to read as follows: 72-8187. (a) In each school year, to the extent that appropriations are available, each school district which has provided educational services for pupils residing at the Flint Hills job corps center, for pupils housed at a psychiatric residential treatment facility or for pupils confined in a juvenile detention facility is eligible to receive a grant of state moneys in an amount to be determined by the state board of education.

(b) In order to be eligible for a grant of state moneys provided for by this section, each school district which has provided educational services for pupils residing at the Flint Hills job corps center, for pupils housed at a psychiatric residential treatment facility or for pupils confined in a juvenile detention facility shall submit to the state board of education an application for a grant and shall certify the amount expended, and not reimbursed or otherwise financed, in the school year for the services provided. The application and certification shall be prepared in such form and manner as the state board shall require and shall be submitted at a time to be determined and specified by the state board. Approval by the state board of applications for grants of state moneys is prerequisite to the award of grants.

(c) Each school district which is awarded a grant under this section shall make such periodic and special reports of statistical and financial information to the state board as it may request.

(d) All moneys received by a school district under authority of this section shall be deposited in the general fund of the school district and shall be considered reimbursement of the district for the purpose of the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto.*

(e) The state board of education shall approve applications of school districts for grants, determine the amount of grants and be responsible for payment of grants to school districts. In determining the amount of a grant which a school district is eligible to receive, the state board shall compute the amount of state financial aid the district would have received on the basis of enrollment of pupils residing at the Flint Hills job corps center, housed at a psychiatric residential treatment facility or confined

in a juvenile detention facility if such pupils had been counted as two pupils under the school district finance and quality performance act and compare such computed amount to the amount certified by the district under subsection (b). The amount of the grant the district is eligible to receive shall be an amount equal to the lesser of the amount computed under this subsection or the amount certified under subsection (b). If the amount of appropriations for the payment of grants under this section is insufficient to pay in full the amount each school district is determined to be eligible to receive for the school year, the state board shall prorate the amount appropriated among all school districts which are eligible to receive grants of state moneys in proportion to the amount each school district is determined to be eligible to receive.

(f) On or before July 1 of each year, the secretary for aging and disability services shall submit to the Kansas department of education a list of facilities which have been certified and licensed as psychiatric residential treatment facilities.

(g) As used in this section:

(1) "Enrollment" means the number of pupils who are: (A) Residing at the Flint Hills job corps center, confined in a juvenile detention facility or residing at a psychiatric residential treatment facility; and (B) for whom a school district is providing educational services on September 20, on November 20, or on April 20 of a school year, whichever is the greatest number of pupils;

(2) "juvenile detention facility" means any public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail; and

(3) "psychiatric residential treatment facility" means a facility which provides psychiatric services to individuals under the age of 21 and which conforms with the regulations of the centers for medicare/medicaid services, is licensed and certified by the Kansas department for aging and disability services pursuant to subsection (f).

Sec. 50. From and after July 1, 2015, K.S.A. 72-8190 is hereby amended to read as follows: 72-8190. (a) For the purpose of determination of ~~supplemental general state aid under K.S.A. 72-6434, and amendments thereto, and~~ payments from the school district capital improvements fund under K.S.A. 75-2319, and amendments thereto, notwithstanding any provision of either such statutory section to the contrary, the term assessed valuation per pupil, as applied to unified school district No. 203, Wyandotte county, shall not include within its meaning the assessed valuation of property which is owned by Sunflower Racing, Inc. and operated as a racetrack facility known as the Woodlands. The meaning of assessed valuation per pupil as provided in this subsection, for the purposes specified in this subsection, and as applied to the unified

school district designated in this subsection, shall be in force and effect for the 1994-95 and 1995-96 school years.

(b) (1) In the event unified school district No. 203, Wyandotte county, receives in any school year the proceeds from any taxes which may be paid upon the Woodlands for the 1994-95 school year or the 1995-96 school year or for both such school years, the state board of education shall deduct an amount equal to the amount of such tax proceeds from future payments of state aid to which the district is entitled.

(2) For the purposes of this subsection, the term “state aid” means ~~supplemental general state aid and~~ payments from the school district capital improvements fund.

Sec. 51. From and after July 1, 2015, K.S.A. 72-8230 is hereby amended to read as follows: 72-8230. (a) In the event the boards of education of any two or more school districts enter into a school district interlocal cooperation agreement for the purpose of jointly and cooperatively performing any of the services, duties, functions, activities, obligations or responsibilities which are authorized or required by law to be performed by school districts of this state, the following conditions shall apply:

(1) A school district interlocal cooperation agreement shall establish a board of directors which shall be responsible for administering the joint or cooperative undertaking. The agreement shall specify the organization and composition of and manner of appointment to the board of directors. Only members of boards of education of school districts party to the agreement shall be eligible for membership on the board of directors. The terms of office of members of the board of directors shall expire concurrently with their terms as board of education members. Vacancies in the membership of the board of directors shall be filled within 30 days from the date of the vacancy in the manner specified in the agreement.

(2) A school district interlocal cooperation agreement may provide for the establishment and composition of an executive board. The members of the executive board, if established, shall be selected by the board of directors from its membership. The executive board shall exercise the powers, have the responsibilities, and perform the duties and functions of the board of directors to the extent authority to do so is delegated by the board of directors.

(3) A school district interlocal cooperation agreement shall be effective only after approval by the state board of education.

(4) A school district interlocal cooperation agreement shall be subject to change or termination by the legislature.

(5) The duration of a school district interlocal cooperation agreement for joint or cooperative action in performing any of the services, duties, functions, activities, obligations or responsibilities, other than the provision of special education services, which are authorized or required by

law to be performed by school districts of this state, shall be for a term of at least three years but not exceeding five years.

(6) (A) The duration of a school district interlocal cooperation agreement for joint or cooperative action in providing special education services shall be perpetual unless the agreement is partially or completely terminated in accordance with this provision. This provision applies to every school district interlocal cooperation agreement for the provision of special education services entered into under authority of this section after the effective date of this act and to every such agreement entered into under this section prior to the effective date of this act, and extant on the effective date of this act, regardless of any provisions in such an agreement to the contrary.

(B) Partial termination of a school district interlocal cooperation agreement for the provision of special education services made and entered into by the boards of three or more school districts may be accomplished only upon petition for withdrawal from the agreement by a contracting school district to the other contracting school districts and approval by the state board of written consent to the petition by such other school districts or upon order of the state board after appeal to it by a school district from denial of consent to a petition for withdrawal and hearing thereon conducted by the state board. The state board shall consider all the testimony and evidence brought forth at the hearing and issue an order approving or disapproving withdrawal by the school district from the agreement.

(C) Complete termination of a school district interlocal cooperation agreement for the provision of special education services made and entered into by the boards of two school districts may be accomplished upon approval by the state board of a joint petition made to the state board for termination of the agreement by both of the contracting school districts after adoption of a resolution to that effect by each of the contracting school districts or upon petition for withdrawal from the agreement made by a contracting school district to the other contracting school district and approval by the state board of written consent to the petition by such other school district or upon order of the state board after appeal to it by a school district from denial of consent to a petition for withdrawal and hearing thereon conducted by the state board. The state board shall consider all the testimony and evidence brought forth at the hearing and issue an order approving or disapproving withdrawal by the school district from the agreement.

(D) Complete termination of a school district interlocal cooperation agreement for the provision of special education services made and entered into by the boards of three or more school districts may be accomplished only upon approval by the state board of a joint petition made to the state board for termination of the agreement by not less than  $\frac{2}{3}$  of the contracting school districts after adoption of a resolution to that effect

by each of the contracting school districts seeking termination of the agreement. The state board shall consider the petition and approve or disapprove termination of the agreement.

(E) The state board shall take such action in approving or disapproving the complete or partial termination of a school district interlocal cooperation agreement for the provision of special education services as the state board deems to be in the best interests of the involved school districts and of the state as a whole in the provision of special education services for exceptional children. Whenever the state board has disapproved the complete or partial termination of such an agreement, no further action with respect to such agreement shall be considered or taken by the state board for a period of not less than three years.

(7) A school district interlocal cooperation agreement shall specify the method or methods to be employed for disposing of property upon partial or complete termination.

(8) Within the limitations provided by law, a school district interlocal cooperation agreement may be changed or modified by affirmative vote of not less than  $\frac{2}{3}$  of the contracting school districts.

(b) Except as otherwise specifically provided in this subsection, any power or powers, privileges or authority exercised or capable of exercise by any school district of this state, or by any board of education thereof, may be jointly exercised pursuant to the provisions of a school district interlocal cooperation agreement. No power or powers, privileges or authority with respect to the levy and collection of taxes, the issuance of bonds, or the purposes and provisions of the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto*, or title I of public law 874 shall be created or effectuated for joint exercise pursuant to the provisions of a school district interlocal cooperation agreement.

(c) Payments from the general fund of each school district which enters into any school district interlocal cooperation agreement for the purpose of financing the joint or cooperative undertaking provided for by the agreement shall be operating expenses.

(d) Upon partial termination of a school district interlocal cooperation agreement, the board of directors established under a renegotiated agreement thereof shall be the successor in every respect to the board of directors established under the former agreement.

(e) Nothing contained in this section shall be construed to abrogate, interfere with, impair, qualify or affect in any manner the exercise and enjoyment of all of the powers, privileges and authority conferred upon school districts and boards of education thereof by the provisions of the interlocal cooperation act, except that boards of education and school districts are required to comply with the provisions of this section when entering into an interlocal cooperation agreement that meets the definition of school district interlocal cooperation agreement.

(f) As used in this section:

(1) “School district interlocal cooperation agreement” means an agreement which is entered into by the boards of education of two or more school districts pursuant to the provisions of the interlocal cooperation act.

(2) “State board” means the state board of education.

Sec. 52. From and after July 1, 2015, K.S.A. 72-8233 is hereby amended to read as follows: 72-8233. (a) In accordance with the provisions of this section, the boards of education of any two or more unified school districts may make and enter into agreements providing for the attendance of pupils residing in one school district at school in kindergarten or any of the grades one through 12 maintained by any such other school district. The boards of education may also provide by agreement for the combination of enrollments for kindergarten or one or more grades, courses or units of instruction.

(b) Prior to entering into any agreement under authority of this section, the board of education shall adopt a resolution declaring that it has made a determination that such an agreement should be made and that the making and entering into of such an agreement would be in the best interests of the educational system of the school district. Any such agreement is subject to the following conditions:

(1) The agreement may be for any term not exceeding a term of five years.

(2) The agreement shall be subject to change or termination by the legislature.

(3) Within the limitations provided by law, the agreement may be changed or terminated by mutual agreement of the participating boards of education.

(4) The agreement shall make provision for transportation of pupils to and from the school attended on every school day, for payment or sharing of the costs and expenses of pupil attendance at school, and for the authority and responsibility of the participating boards of education.

(c) Provision by agreements entered into under authority of this section for the attendance of pupils at school in a school district of nonresidence of such pupils shall be deemed to be compliance with the kindergarten, grade, course and units of instruction requirements of law.

(d) The board of education of any school district which enters into an agreement under authority of this section for the attendance of pupils at school in another school district may discontinue kindergarten or any or all of the grades, courses and units of instruction specified in the agreement for attendance of pupils enrolled in kindergarten or any such grades, courses and units of instruction at school in such other school district. Upon discontinuing kindergarten or any grade, course or unit of instruction under authority of this subsection, the board of education may close

any school building or buildings operated or used for attendance by pupils enrolled in such discontinued kindergarten, grades, courses or units of instruction. The closing of any school building under authority of this subsection shall require a majority vote of the members of the board of education and shall require no other procedure or approval.

(e) Pupils attending school in a school district of nonresidence of such pupils in accordance with an agreement made and entered into under authority of this section shall be counted as regularly enrolled in and attending school in the school district of residence of such pupils for the purpose of computations under the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto.*

(f) Pupils who satisfactorily complete grade 12 while in attendance at school in a school district of nonresidence of such pupils in accordance with the provisions of an agreement entered into under authority of this section shall be certified as having graduated from the school district of residence of such pupils unless otherwise provided for by the agreement.

Sec. 53. From and after July 1, 2015, K.S.A. 72-8236 is hereby amended to read as follows: 72-8236. (a) The board of education of any school district may: (1) Establish, operate and maintain a child care facility; (2) enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of a child care facility; (3) contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of a child care facility; and (4) prescribe and collect fees for providing care at a child care facility.

(b) Fees for providing care at a child care facility established under authority of this section shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the child care facility. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto*, and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.

(c) Every school district which establishes, operates and maintains a child care facility shall be subject to the provisions contained in article 5 of chapter 65 of Kansas Statutes Annotated, *and amendments thereto.*

(d) As used in this section, the term “child” means any child who is three years of age or older, and any infant or toddler whose parent or parents are pupils or employees of a school district which establishes,

operates and maintains, or cooperates in the establishment, operation and maintenance of, a child care facility under authority of this act.

Sec. 54. From and after July 1, 2015, K.S.A. 2014 Supp. 72-8237 is hereby amended to read as follows: 72-8237. (a) The board of education of any school district may: (1) Establish, operate and maintain a summer program for pupils; (2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of a summer program for pupils; and (3) prescribe and collect fees for providing a summer program for pupils or provide such program without charge.

(b) Fees for providing a summer program for pupils shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.

(c) No school district may collect fees for providing a summer program for pupils required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child.

(d) There is hereby established in every district which establishes, operates and maintains a summer program a fund which shall be called the summer program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for summer programs shall be credited to the summer program fund. ~~The expenses of a district directly attributable to summer programs shall be paid from the summer program fund~~ *Amounts deposited in the summer program fund may be used for the payment of expenses directly attributable to the program or may be transferred to the general fund of the school district as approved by the board of education.*

~~Any unencumbered balance of moneys remaining in the summer program fund of a school district on June 30 of the current school year, may be expended in the school year that immediately succeeds such date by the school district for general operating expenses of the school district as approved by the board of education.~~

(e) As used in this section, the term “summer program” means a program which is established by the board of education of a school district and operated during the summer months for the purpose of giving remedial instruction to pupils or for the purpose of conducting special projects and activities designed to enrich and enhance the educational experience of pupils, or for both such purposes.

Sec. 55. From and after July 1, 2015, K.S.A. 2014 Supp. 72-8249 is hereby amended to read as follows: 72-8249. (a) There is hereby estab-

lished in every school district a special reserve fund. Moneys in such fund shall be used to:

- (1) Pay claims, judgments, expenses and other purposes relating to health care services, disability income benefits and group life insurance benefits as authorized by K.S.A. 72-8415a, and amendments thereto;
- (2) pay costs relating to uninsured losses; and
- (3) pay the cost of workers compensation insurance and workers compensation claims, awards, expenses and other purposes authorized by the workers compensation act.

*Moneys in such fund may be transferred to the general fund of the school district as approved by the board of education.*

(b) Any balance remaining in the special reserve fund at the end of the budget year shall be carried forward into that reserve fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the special reserve fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

Sec. 56. From and after July 1, 2015, K.S.A. 2014 Supp. 72-8250 is hereby amended to read as follows: 72-8250. (a) There is hereby established in every school district a textbook and student materials revolving fund. Moneys in such fund shall be used to:

- (1) Purchase any items designated in K.S.A. 72-5389, and amendments thereto;
- (2) pay the cost of materials or other items used in curricular, extracurricular or other school-related activities; and
- (3) purchase textbooks as authorized by K.S.A. 72-4141, and amendments thereto.

*Moneys in such fund may be transferred to the general fund of the school district as approved by the board of education.*

(b) Any balance remaining in the textbook and student materials revolving fund at the end of the budget year shall be carried forward into that fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the textbook and student materials revolving fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

~~Any unencumbered balance of moneys remaining in the textbook and student materials revolving fund of a school district on June 30 of the~~

~~current school year, may be expended in the school year that immediately succeeds such date by the school district for general operating expenses of the school district as approved by the board of education in an amount not to exceed 1/3 of the unencumbered balance of the school district's textbook and student materials revolving fund.~~

Sec. 57. From and after July 1, 2015, K.S.A. 2014 Supp. 72-8251 is hereby amended to read as follows: 72-8251. Whenever a school district is required by law to make any payment during the month of June and there is insufficient revenue to make such payment as a result of the payment of state aid after the date prescribed by the state board of education pursuant to ~~K.S.A. 72-6417 or 72-6434~~ *section 7*, and amendments thereto, the school district shall make such payment as soon as moneys are available.

Sec. 58. From and after July 1, 2015, K.S.A. 2014 Supp. 72-8302 is hereby amended to read as follows: 72-8302. (a) The board of education of a school district may provide or furnish transportation for pupils who are enrolled in the school district to or from any school of the school district or to or from any school of another school district attended by such pupils in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto.

(b) (1) When any or all of the conditions specified in this provision exist, the board of education of a school district shall provide or furnish transportation for pupils who reside in the school district and who attend any school of the school district or who attend any school of another school district in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto. The conditions which apply to the requirements of this provision are as follows:

(A) The residence of the pupil is inside or outside the corporate limits of a city, the school building attended is outside the corporate limits of a city and the school building attended is more than 2½ miles by the usually traveled road from the residence of the pupil; or

(B) the residence of the pupil is outside the corporate limits of a city, the school building attended is inside the corporate limits of a city and the school building attended is more than 2½ miles by the usually traveled road from the residence of the pupil; or

(C) the residence of the pupil is inside the corporate limits of one city, the school building attended is inside the corporate limits of a different city and the school building attended is more than 2½ miles by the usually traveled road from the residence of the pupil.

(2) The provisions of this subsection are subject to the provisions of subsections (c) and (d).

(c) The board of education of every school district is authorized to adopt rules and regulations to govern the conduct, control and discipline

of all pupils while being transported in school buses. The board may suspend or revoke the transportation privilege or entitlement of any pupil who violates any rules and regulations adopted by the board under authority of this subsection.

(d) The board of education of every school district may suspend or revoke the transportation privilege or entitlement of any pupil who is detained at school at the conclusion of the school day for violation of any rules and regulations governing pupil conduct or for disobedience of an order of a teacher or other school authority. Suspension or revocation of the transportation privilege or entitlement of any pupil specified in this subsection shall be limited to the school day or days on which the pupil is detained at school. The provisions of this subsection do not apply to any pupil who has been determined to be an exceptional child, except gifted children, under the provisions of the special education for exceptional children act.

(e) (1) Subject to the limitations specified in this subsection, the board of education of any school district may prescribe and collect fees to offset, totally or in part, the costs incurred for the provision or furnishing of transportation for pupils. The limitations which apply to the authorization granted by this subsection are as follows:

(A) Fees for the provision or furnishing of transportation for pupils shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the provision or furnishing of transportation for pupils and only to the extent that such costs are not reimbursed from any other source provided by law;

(B) fees for the provision or furnishing of transportation may not be assessed against or collected from any pupil ~~who is counted in determining the transportation weighting of the school district under the provisions of the school district finance and quality performance act or any pupil who is determined to be a child with disabilities under the provisions of the special education for exceptional children act or any pupil who is eligible for free or reduced price meals under the national school lunch act or any pupil who is entitled to transportation under the provisions of subsection (a) of K.S.A. 72-8306(a), and amendments thereto, and who resides 2½ miles or more by the regular route of a school bus from the school attended;~~

(C) fees for the provision or furnishing of transportation for pupils in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233 or 72-8307, and amendments thereto, shall be controlled by the provisions of the agreement.

(2) All moneys received by a school district from fees collected under this subsection shall be deposited in the general fund of the district.

Sec. 59. From and after July 1, 2015, K.S.A. 72-8309 is hereby amended to read as follows: 72-8309. (a) The board of education of a

school district shall not furnish or provide transportation for pupils or students who reside in another school district except in accordance with the written consent of the board of education of the school district in which such pupil or student resides, or in accordance with an order issued by a board of education under the provisions of K.S.A. 72-1046b, and amendments thereto, or in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto.

(b) A school district may transport a nonresident pupil or student if such pupil or student boards the school bus within the boundaries or on the boundary of the transporting school district. To the extent that the provisions of this subsection conflict with the provisions of subsection (a), the provisions of subsection (a) shall control.

~~(c) No pupil or student who is furnished or provided transportation by a school district which is not the school district in which the pupil or student resides shall be counted in the computation of the school district's transportation weighting under article 64 of chapter 72 of Kansas Statutes Annotated.~~

Sec. 60. From and after July 1, 2015, K.S.A. 2014 Supp. 72-8316 is hereby amended to read as follows: 72-8316. (a) Any board of education, pursuant to a policy developed and adopted by it, may provide for the use of district-owned or leased school buses when such buses are not being used for regularly required school purposes. The policy may provide for:

(1) (A) Transporting parents and other adults to or from school-related functions or activities;; (B) transporting pupils to or from functions or activities sponsored by organizations, the membership of which is principally composed of children of school age;; and (C) transporting persons engaged in field trips in connection with their participation in an adult education program maintained by the transporting school district or by any other school district, within or outside the boundaries of the transporting school district; and

(2) contracting with: (A) The governing body of any township, city or county for transportation of individuals, groups or organizations;; (B) the governing authority of any nonpublic school for transportation of pupils attending such nonpublic school to or from interschool or intraschool functions or activities;; (C) the board of trustees of any community college for transportation of students enrolled in such community college to or from attendance at class at the community college or to and from functions or activities of the community college;; (D) a public recreation commission established and operated under the laws of this state, for any purposes related to the operation of the recreation commission and all programs and services thereof;; (E) the board of education of any other school district for transportation, on a cooperative and shared-cost basis,

of pupils, school personnel, parents and other adults to or from school-related functions or activities; or (F) a four-year college or university, area vocational school or area vocational-technical school for transportation of students to or from attendance at class at the four-year college or university, area vocational school or area vocational-technical school or for transportation of students, alumni and other members of the public to or from functions or activities of the four-year college or university, area vocational school or area vocational-technical school.

~~(b) The costs related to the use of school buses under authority of this section shall not be considered in determining the transportation weighting of a school district under article 64 of chapter 72 of Kansas Statutes Annotated.~~

~~(c)~~ Transportation fees may be charged by the board to offset, totally or in part, the costs incurred for the use of school buses under authority of this section.

~~(d)~~ (c) Any revenues received by a board of education as transportation fees or under any contract entered into pursuant to this section shall be deposited in the general fund of the *school* district and shall be considered reimbursements to the *school* district for the purpose of the ~~school district finance and quality performance act~~ *classroom learning assuring student success act, section 4 et seq., and amendments thereto.* Such revenues may be expended whether the same have been budgeted or not.

~~(e)~~ (d) The provisions of ~~subsection (c) of K.S.A. 8-1556(c), and amendments thereto,~~ apply to the use of school buses under authority of this section.

Sec. 61. From and after July 1, 2015, K.S.A. 2014 Supp. 72-8415b is hereby amended to read as follows: 72-8415b. (a) Any school district that elects to become a self-insurer under the provisions of K.S.A. 72-8414, and amendments thereto, may transfer moneys from its general fund to the special reserve fund of the district as provided by ~~K.S.A. 72-6428~~ *section 19*, and amendments thereto.

(b) Any community college that elects to become a self-insurer under the provisions of K.S.A. 72-8414, and amendments thereto, may transfer such amounts from its general fund to the health care services reserve fund or the disability income benefits reserve fund, or the group life benefit reserve fund, or all three, as may be deemed necessary to meet the cost of health care services or disability income benefits, or group life insurance claims, whichever is applicable.

Sec. 62. From and after July 1, 2015, K.S.A. 2014 Supp. 72-8804 is hereby amended to read as follows: 72-8804. (a) Any moneys in the capital outlay fund of any school district and any moneys received from issuance of bonds under K.S.A. 72-8805 or 72-8810, and amendments thereto, may be used for the purpose of the acquisition, construction, reconstruc-

tion, repair, remodeling, additions to, furnishing, maintaining and equipping of school district property and equipment necessary for school district purposes, including: (1) Acquisition of computer software; (2) acquisition of performance uniforms; (3) housing and boarding pupils enrolled in an area vocational school operated under the board of education; (4) architectural expenses; (5) acquisition of building sites; (6) undertaking and maintenance of asbestos control projects; (7) acquisition of school buses; and (8) acquisition of other fixed assets, *and, for school years 2015-2016 and 2016-2017, subject to the provisions of section 19, and amendments thereto, may be transferred to the general fund of the school district as approved by the board of education.*

(b) The board of education of any school district is hereby authorized to invest any portion of the capital outlay fund of the school district which is not currently needed in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein, or may invest the same in direct obligations of the United States government maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest whereof is guaranteed by the government of the United States. All interest received on any such investment shall upon receipt thereof be credited to the capital outlay fund.

Sec. 63. K.S.A. 2014 Supp. 72-8814, as amended by section 54 of 2015 House Substitute for Senate Bill No. 4, 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~~ *For school year 2014-2015*, 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~~ *the school district with the lowest 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)~~ (3) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the ~~median lowest~~ AVPP shown on the schedule; *and* decreasing the state aid computation percentage assigned to the amount of the ~~median lowest~~ AVPP by one percentage point for each \$1,000 interval above the amount of the ~~median lowest~~ 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. 2014 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%~~ 75%;

~~(5)~~ (4) determine the amount levied by each school district pursuant to K.S.A. 72-8801 et seq., and amendments thereto; *and*

~~(6)~~ (5) multiply the amount computed under ~~(5)~~ subsection (b)(4), but not to exceed 8 mills, by the applicable state aid percentage factor *for the school district*. 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 except as provided further, 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.~~

~~(d)~~—During the fiscal year ending June 30, 2015:

(1) On February 20, 2015, the director of accounts and reports shall transfer \$25,300,000 from the state general fund to the school district capital outlay state aid fund. The state board of education shall distribute such moneys to pay the proportionate share of the entitlements to each school district as determined under the provisions of subsection (b); *and*

(2) On June 20, 2015, the director of accounts and reports shall transfer the remaining amount of moneys to which the school districts are entitled to receive from the state general fund to the school district capital outlay state aid fund pursuant to the provisions of subsection (b). *Such transferred amount shall not exceed \$2,202,500.* The state board of education shall distribute such moneys to pay the ~~remaining proportionate~~ share of the entitlement to each school district as determined under the provisions of subsection (b).

~~(e)~~(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.

~~(f)~~(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.

(f) *For school year 2014-2015, for those school districts whose total assessed valuation for school year 2015-2016 is less than such district's total assessed valuation for school year 2014-2015, and the difference in total assessed valuation between school year 2014-2015 and school year 2015-2016 is an amount that is greater than 25% of the total assessed valuation of such district for school year 2014-2015, and such reduction in total assessed valuation is the direct result of the classification of tangible personal property within such district for property tax purposes pursuant to K.S.A. 2014 Supp. 79-507, and amendments thereto, the assessed valuation per pupil for purposes of determining capital outlay state aid shall be based on such school district's total assessed valuation for school year 2015-2016.*

Sec. 64. From and after July 1, 2015, K.S.A. 72-8908 is hereby amended to read as follows: 72-8908. As used in this act:

- (a) "Juvenile" means a person who is less than 18 years of age;
- (b) "adult" means a person who is 18 years of age or older;
- (c) "felony" means any crime designated a felony by the laws of Kansas or the United States;
- (d) "misdemeanor" means any crime designated a misdemeanor by the laws of Kansas or the United States;
- (e) "school day" means any day on which school is maintained;
- (f) "school year" has the meaning ascribed thereto in ~~K.S.A. 72-6408~~ section 5, and amendments thereto;
- (g) "counsel" means any person a pupil selects to represent and advise the pupil at all proceedings conducted pursuant to the provisions of this act; and
- (h) "principal witness" means any witness whose testimony is of major importance in support of the charges upon which a proposed suspension or expulsion from school is based, or in determination of material questions of fact.

Sec. 65. From and after July 1, 2015, K.S.A. 2014 Supp. 72-9509 is hereby amended to read as follows: 72-9509. (a) There is hereby established in every school district a fund which shall be called the bilingual

education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. ~~The expenses of a district directly attributable to such bilingual education programs shall be paid from the bilingual education fund.~~ *Amounts deposited in the bilingual education fund may be used for the payment of expenses directly attributable to bilingual education or may be transferred to the general fund of the school district as approved by the board of education.*

(b) Any balance remaining in the bilingual education fund at the end of the budget year shall be carried forward into the bilingual education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the bilingual education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

~~Any unencumbered balance of moneys remaining in the bilingual education fund of a school district on June 30 of the current school year, may be expended in the school year that immediately succeeds such date by the school district for general operating expenses of the school district as approved by the board of education.~~

(c) Each year the board of education of each school district shall prepare and submit to the state board a report on the bilingual education program and assistance provided by the district. Such report shall include information specifying the number of pupils who were served or provided assistance, the type of service provided, the research upon which the district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.

Sec. 66. From and after July 1, 2015, K.S.A. 2014 Supp. 72-9609 is hereby amended to read as follows: 72-9609. There is hereby established in every school district a fund which shall be called the professional development fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by the school district from whatever source for professional development programs established under this act shall be credited to the fund established by this section. ~~The expenses of a school district directly attributable to professional development programs shall be paid from the professional development fund.~~ *Amounts deposited in the professional development fund may be used for the payment of expenses directly attributable to professional development or may be transferred to the general fund of the school district as approved by the board of education.*

~~Any unencumbered balance of moneys remaining in the professional development fund of a school district on June 30 of the current school~~

year, may be expended in the school year that immediately succeeds such date by the school district for general operating expenses of the school district as approved by the board of education.

Sec. 67. From and after July 1, 2015, K.S.A. 2014 Supp. 72-99a02 is hereby amended to read as follows: 72-99a02. 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 prior to its repeal~~, 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 K.S.A. 2014 Supp. 72-99a01 through 72-99a07, 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~~ or 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~~ *section 5*, and amendments thereto.

(l) “Secretary” means the secretary of revenue.

(m) “State board” means the state board of education.

Sec. 68. From and after July 1, 2015, K.S.A. 2014 Supp. 74-32,141 is hereby amended to read as follows: 74-32,141. (a) On July 1, 1999, the technical colleges, area vocational schools and area vocational-technical schools established and existing under the laws of this state shall be and hereby are transferred from the supervision of the state board of education to supervision and coordination by the state board of regents. The technical colleges, area vocational schools and area vocational-technical schools shall continue to be operated, managed and controlled by governing boards as provided for in article 44 of chapter 72 of Kansas Statutes Annotated, *and amendments thereto*. The state board of regents shall exercise such supervision and coordination of the operation, management and control of technical colleges, area vocational schools and area vocational-technical schools as may be prescribed by law.

(b) On July 1, 1999, all of the powers, duties, functions, records and property of the state board of education relating to operations of technical colleges, area vocational schools and area vocational-technical schools shall be and are hereby transferred to and conferred and imposed upon the state board of regents.

(c) On and after July 1, 1999, the state board of regents shall be the successor in every way to the powers, duties and functions of the state board of education relating to operations of technical colleges, area vocational schools and area vocational-technical schools in which the same were vested prior to July 1, 1999. Every act performed by the state board of regents shall be deemed to have the same force and effect as if performed by the state board of education in which such functions were vested prior to July 1, 1999.

(d) On and after July 1, 1999, whenever the state board of education, or words of like effect, is referred to or designated by a statute, contract or other document relating to operations of technical colleges, area vocational schools or area vocational-technical schools, such reference or designation shall be deemed to apply to the state board of regents established.

(e) All rules and regulations, and all orders and directives of the state board of education relating to operations of technical colleges, area vocational schools and area vocational-technical schools which are in existence on July 1, 1999, shall continue to be effective and shall be deemed to be the duly adopted rules and regulations or orders and directives of

the state board of regents until revised, amended, revoked or nullified pursuant to law.

(f) The unexpended balance of any appropriation for and any funds available to the state board of education for purposes relating to operations of technical colleges, area vocational schools and area vocational-technical schools shall be transferred to the state board of regents on July 1, 1999.

(g) On and after July 1, 1999, all books, records and papers of the governing boards of technical colleges, area vocational schools and area vocational-technical schools shall be open and available, at all reasonable times, to the state board of regents and its designated officers, employees and agents.

(h) Except as otherwise specifically provided in this act, the transfer of supervision of the technical colleges, area vocational schools and area vocational-technical schools from the state board of education to supervision and coordination by the state board of regents shall not be construed in any manner so as to change or affect the operation, management and control of any technical college, area vocational school or area vocational-technical school or to change or affect any existing power, duty or function of the governing board of any technical college, area vocational school or area vocational-technical school with respect to such operation, management and control.

~~(i) For the purposes of the school district finance and quality performance act, the term approved "career technical" education program means in the case of career technical education programs offered and provided in the area vocational schools, the area vocational-technical schools, and the technical colleges, approved by the state board of regents, and in the case of career technical education programs offered and provided in the high schools of a school district, approved by the state board of education.~~

Sec. 69. From and after July 1, 2015, K.S.A. 2014 Supp. 74-4939a is hereby amended to read as follows: 74-4939a. On and after the effective date of this act for each fiscal year commencing with fiscal year 2005, notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto or any other statute, all moneys appropriated for the department of education from the state general fund commencing with fiscal year 2005, and each ensuing fiscal year thereafter, by appropriation act of the legislature, in the KPERS – employer contributions account and all moneys appropriated for the department of education from the state general fund or any special revenue fund for each fiscal year commencing with fiscal year 2005, and each ensuing fiscal year thereafter, by any such appropriation act in that account or any other account for payment of employer contributions for school districts, shall be distributed by the department of education to school districts in accordance with this sec-

tion. Notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, the department of education shall disburse to each school district that is an eligible employer as specified in ~~subsection (1) of K.S.A. 74-4931(1)~~, and amendments thereto, an amount ~~certified by the board of trustees of the Kansas public employees retirement system which is equal to the participating employer's obligation of such school district to the system in accordance with policies and procedures which are hereby authorized and directed to be adopted by the department of education for the purposes of this section and in accordance with any requirements prescribed by the board of trustees of the Kansas public employees retirement system~~ *in accordance with section 6(a)(6), and amendments thereto, which shall be disbursed pursuant to section 6, and amendments thereto.* Upon receipt of each such disbursement of moneys, the school district shall deposit the entire amount thereof into a special retirement contributions fund of the school district, which shall be established by the school district in accordance with such policies and procedures and which shall be used for the sole purpose of receiving such disbursements from the department of education and making the remittances to the system in accordance with this section and such policies and procedures. Upon receipt of each such disbursement of moneys from the department of education, the school district shall remit, in accordance with the provisions of such policies and procedures and in the manner and on the date or dates prescribed by the board of trustees of the Kansas public employees retirement system, an equal amount to the Kansas public employees retirement system from the special retirement contributions fund of the school district to satisfy such school district's obligation as a participating employer. Notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, each school district that is an eligible employer as specified in ~~subsection (1) of K.S.A. 74-4931(1)~~, and amendments thereto, shall show within the budget of such school district all amounts received from disbursements into the special retirement contributions fund of such school district. Notwithstanding the provisions of any other statute, no official action of the school board of such school district shall be required to approve a remittance to the system in accordance with this section and such policies and procedures. All remittances of moneys to the system by a school district in accordance with this subsection and such policies and procedures shall be deemed to be expenditures of the school district.

Sec. 70. From and after July 1, 2015, K.S.A. 2014 Supp. 74-8925 is hereby amended to read as follows: 74-8925. (a) For the purposes of this act, the term "taxing subdivision" shall include the county, the city, the unified school district and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created redevelopment district. The term "real

property taxes” includes all taxes levied on an ad valorem basis upon land and improvements thereon, other than the property tax levied pursuant to the provisions of ~~K.S.A. 72-6431~~ *section 11*, and amendments thereto, or any other property tax levied by or on behalf of a school district.

(b) All tangible taxable property located within a redevelopment district shall be assessed and taxed for ad valorem tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all ad valorem taxes levied on such property shall be paid to and collected by the county treasurer in the same manner as other taxes are paid and collected. Except as otherwise provided in this section, the county treasurer shall distribute such taxes as may be collected in the same manner as if such property were located outside a redevelopment district. Each redevelopment district established under the provisions of this act shall constitute a separate taxing unit for the purpose of the computation and levy of taxes.

(c) Beginning with the first payment of taxes which are levied following the date of approval of any redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, real property taxes received by the county treasurer resulting from taxes which are levied subject to the provisions of this act by and for the benefit of a taxing subdivision, as herein defined, on property located within such redevelopment district constituting a separate taxing unit under the provisions of this section, shall be divided as follows:

(1) From the taxes levied each year subject to the provisions of this act by or for each of the taxing subdivisions upon property located within a redevelopment district constituting a separate taxing unit under the provisions of this act, the county treasurer first shall allocate and pay to each such taxing subdivision all of the real property taxes collected which are produced from that portion of the current assessed valuation of such real property located within such separate taxing unit which is equal to the total assessed value of such real property on the date of the establishment of the redevelopment district.

(2) Any real property taxes produced from that portion of the current assessed valuation of real property within the redevelopment district constituting a separate taxing unit under the provisions of this section in excess of an amount equal to the total assessed value of such real property on the effective date of the establishment of the district shall be allocated and paid by the county treasurer according to specified percentages of the tax increment expressly agreed upon and consented to by the governing bodies of the county and school district in which the redevelopment district is located. The amount of the real property taxes allocated and payable to the authority under the agreement shall be paid by the county treasurer to the treasurer of the state. The remaining amount of the real property taxes not payable to the authority shall be allocated and paid in the same manner as other ad valorem taxes. Any real property

taxes paid to the state treasurer under this section shall be deposited in the redevelopment bond finance fund of the authority which is created pursuant to K.S.A. 74-8927, and amendments thereto, to pay the costs of any approved redevelopment project, including the payment of principal of and interest on any bonds issued by the authority to finance, in whole or in part, such project. When such bonds and interest thereon have been paid, all moneys thereafter received from real property taxes within such redevelopment district shall be allocated and paid to the respective taxing subdivisions in the same manner as are other ad valorem taxes. If such bonds and interest thereon have been paid before the completion of a project, the authority may continue to use such moneys for any purpose authorized by the redevelopment agreement until such time as the project costs are paid or reimbursed, but for a period not to exceed the final scheduled maturity of the bonds.

(d) In any redevelopment plan or in the proceedings for the issuing of any bonds by the authority to finance a project, the property tax increment portion of taxes provided for in ~~paragraph (2)~~ of subsection (c)(2) may be irrevocably pledged for the payment of the principal of and interest on such bonds. The authority may adopt a redevelopment plan in which only a specified percentage of the tax increment realized from taxpayers in the redevelopment district is pledged to the payment of costs.

Sec. 71. From and after July 1, 2015, K.S.A. 2014 Supp. 74-99b43 is hereby amended to read as follows: 74-99b43. (a) The Kansas development finance authority is hereby authorized to issue special obligation bonds pursuant to K.S.A. 74-8901 et seq., and amendments thereto, in one or more series to finance the undertaking of any bioscience development project in accordance with the provisions of this act. No special obligation bonds may be issued pursuant to this section unless the Kansas development finance authority has received a resolution of the board of the authority requesting the issuance of such bonds. Such special obligation bonds shall be made payable, both as to principal and interest from one or more of the following, as directed by the authority:

(1) From ad valorem tax increments allocated to, and paid into the bioscience development bond fund for the payment of the project costs of a bioscience development project under the provisions of this section;

(2) from any private sources, contributions or other financial assistance from the state or federal government;

(3) from a pledge of a portion or all of the revenue received from transient guest, sales and use taxes collected pursuant to K.S.A. 12-1696 et seq., 79-3601 et seq., 79-3701 et seq. and 12-187 et seq., and amendments thereto, and which are collected from taxpayers doing business within that portion of the bioscience development district and paid into the bioscience development bond fund;

(4) from a pledge of a portion or all increased revenue received by

any city from franchise fees collected from utilities and other businesses using public right-of-way within the bioscience development district; or

(5) by any combination of these methods.

(b) All tangible taxable property located within a bioscience development district shall be assessed and taxed for ad valorem tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all ad valorem taxes levied on such property shall be paid to and collected by the county treasurer in the same manner as other taxes are paid and collected. Except as otherwise provided in this section, the county treasurer shall distribute such taxes as may be collected in the same manner as if such property were located outside a bioscience development district. Each bioscience development district established under the provisions of this act shall constitute a separate taxing unit for the purpose of the computation and levy of taxes.

(c) Beginning with the first payment of taxes which are levied following the date of the establishment of the bioscience development district real property taxes received by the county treasurer resulting from taxes which are levied subject to the provisions of this act by and for the benefit of a taxing subdivision, as defined in K.S.A. 2014 Supp. 12-1770a, and amendments thereto, on property located within such bioscience development district constituting a separate taxing unit under the provisions of this section, shall be divided as follows:

(1) From the taxes levied each year subject to the provisions of this act by or for each of the taxing subdivisions upon property located within a bioscience development district constituting a separate taxing unit under the provisions of this act, the county treasurer first shall allocate and pay to each such taxing subdivision all of the real property taxes collected which are produced from the base year assessed valuation.

(2) Any real property taxes, except for property taxes levied for schools pursuant to ~~K.S.A. 72-6431~~ *section 11*, and amendments thereto, produced from that portion of the current assessed valuation of real property within the bioscience development district constituting a separate taxing unit under the provisions of this section in excess of the base year assessed valuation shall be allocated and paid by the county treasurer to the bioscience development bond fund to pay the bioscience development project costs including the payment of principal and interest on any special obligation bonds to finance, in whole or in part, such bioscience development projects.

(d) The authority may pledge the bioscience development bond fund or other available revenue to the repayment of such special obligation bonds prior to, simultaneously with, or subsequent to the issuance of such special obligation bonds.

(e) Any bonds issued under the provisions of this act and the interest paid thereon, unless specifically declared to be taxable in the authorizing

resolution of the Kansas development finance authority, shall be exempt from all state, county and municipal taxes, and the exemption shall include income, estate and property taxes.

Sec. 72. From and after July 1, 2015, K.S.A. 2014 Supp. 75-2319 is hereby amended to read as follows: 75-2319. (a) There is hereby established in the state treasury the school district capital improvements fund. The fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

(b) Subject to the provisions of subsection (f), in each school year, each school district which is obligated to make payments from its capital improvements fund shall be entitled to receive payment from the school district capital improvements fund in an amount determined by the state board of education as provided in this subsection. ~~The state board of education shall:~~

(1) *For general obligation bonds approved for issuance at an election held prior to July 1, 2015, the state board of education shall:*

(A) 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~~ subsection (b)(1);

~~(2)~~ (B) determine the median AVPP of all school districts;

~~(3)~~ (C) 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)~~ (D) 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. 2014 Supp. 75-2319c, 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. The state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is ~~5% for contractual bond obligations incurred by a school district prior to the effective date of this act,~~

~~and 25% for contractual bond obligations incurred by a school district on or after the effective date of this act;~~

~~(5) (E) determine the amount of payments in the aggregate that a school district is obligated to make from its bond and interest fund and, of such amount, compute the amount attributable to contractual bond obligations incurred by the school district prior to the effective date of this act and the amount attributable to contractual bond obligations incurred by the school district on or after the effective date of this act July 1, 2015; and~~

~~(6) (F) multiply each of the amounts computed the amount determined under (5) subsection (b)(1)(E) by the applicable state aid percentage factor; and~~

~~(7) add the products obtained under (6). The amount of the sum is the amount of payment the school district is entitled to receive from the school district capital improvements fund in the school year.~~

(2) *For general obligation bonds approved for issuance at an election held on or after July 1, 2015, but prior to July 1, 2017, the state board of education shall:*

(A) *Determine the amount of the 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 subsection (b)(2);*

(B) *prepare a schedule of dollar amounts using the amount of the AVPP of the school district with the lowest 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;*

(C) *determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the lowest AVPP shown on the schedule and decreasing the state aid computation percentage assigned to the amount of the lowest AVPP by one percentage point for each \$1,000 interval above the amount of the lowest AVPP. Except as provided by K.S.A. 2014 Supp. 75-2319c, 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. The state aid computation percentage is 75%;*

(D) *determine the amount of payments that a school district is obligated to make from its bond and interest fund attributable to contractual bond obligations incurred by the school district on or after July 1, 2015; and*

(E) *multiply the amount determined under subsection (b)(2)(D) by the applicable state aid percentage factor.*

(3) *The sum of the amount determined under subsection (b)(1)(F) and the amount determined under subsection (b)(2)(E) is the amount of pay-*

*ment the school district is entitled to receive from the school district capital improvements fund in the school year.*

(c) The state board of education 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 improvements fund for distribution to school districts. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal years ending June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016, shall be considered to be revenue transfers from the state general fund.

(d) Payments from the school district capital improvements fund shall be distributed to school districts at times determined by the state board of education to be necessary to assist school districts in making scheduled payments pursuant to contractual bond obligations. 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 bond and interest fund of the school district to be used for the purposes of such fund.

(e) The provisions of this section apply only to contractual obligations incurred by school districts pursuant to general obligation bonds issued upon approval of a majority of the qualified electors of the school district voting at an election upon the question of the issuance of such bonds.

~~(f) Amounts transferred to the capital improvements 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. 73. From and after July 1, 2015, K.S.A. 2014 Supp. 79-201x is hereby amended to read as follows: 79-201x. For taxable years ~~2013~~ 2015 and ~~2014~~ 2016, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of ~~K.S.A. 72-6431~~ section 11, and amendments thereto: Property used for residential purposes to the extent of \$20,000 of its appraised valuation.

Sec. 74. From and after July 1, 2015, K.S.A. 2014 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the state ~~court~~ board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the state ~~court~~ board of tax appeals. With regard to a request for exemption from property tax pursuant to the provisions of K.S.A. 79-201g and 82a-409, and amendments thereto, not filed with the ~~court~~ board of tax appeals by the county appraiser on or before the effective date of this act, if the county appraiser recommends the exemption request be granted, the exemption shall be provided in the amount recommended by the county appraiser and the county appraiser shall not file the request for exemption and recommendations of the county appraiser with the state ~~court~~ board of tax appeals. The county clerk or county assessor shall annually make such adjustment in the taxes levied against the real property as the owner may be entitled to receive under the provisions of K.S.A. 79-201g, and amendments thereto, as recommended by the county appraiser, beginning with the first period, following the date of issue of the certificate of completion on which taxes are regularly levied, and during the years which the landowner is entitled to such adjustment.

(f) Upon receipt of the request for exemption, the ~~court~~ board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption and the county appraiser's recommendation related thereto, the ~~court~~ board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the constitution of the state of Kansas; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any

extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the ~~court~~ *board* sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the ~~court~~ *board*.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the ~~court~~ *board* issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the ~~court~~ *board* issued its order thereon. In the event the ~~court~~ *board* determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the ~~court~~ *board* grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the ~~court~~ *board* shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the ~~court~~ *board* shall have the authority to order a refund of taxes for the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing

apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) all property exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m, and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth*, and amendments thereto, including all property previously acquired 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. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x, *and amendments thereto*, from the property tax levied pursuant to ~~K.S.A. 72-6431~~ *section 11*, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 *Ninth*, *and amendments thereto*; (17) from and after July 1, 1998, motor vehicles exempted from taxation by ~~subsection (c) of K.S.A. 79-5107(e)~~, and amendments thereto; (18) com-

mercial and industrial machinery and equipment exempted from property or ad valorem taxation by K.S.A. 2014 Supp. 79-223, and amendments thereto; (19) telecommunications machinery and equipment and railroad machinery and equipment exempted from property or ad valorem taxation by K.S.A. 2014 Supp. 79-224, and amendments thereto; and (20) property exempted from property or ad valorem taxation by K.S.A. 2014 Supp. 79-234, and amendments thereto.

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the constitution of the state of Kansas.

(n) The provisions of subsection (k) as amended by this act shall be applicable to all exemption applications filed in accordance with subsection (a) after December 31, 2001.

Sec. 75. From and after July 1, 2015, K.S.A. 79-2001 is hereby amended to read as follows: 79-2001. (a) As soon as the county treasurer receives the tax roll of the county, the treasurer shall enter in a column opposite the description of each tract or parcel of land the amount of unpaid taxes and the date of unredeemed sales, if any, for previous years on such land. The treasurer shall cause a notice to be published in the official county paper once each week for three consecutive weeks, stating in the notice the amount of taxes charged for state, county, township, school, city or other purposes for that year, on each \$1,000 of valuation.

(b) Each year after receipt of the tax roll from the county clerk and before December 15, the treasurer shall mail to each taxpayer, as shown by the rolls, a tax statement which indicates the taxing unit, assessed value of real and personal property, the mill levy and tax due. In addition, with respect to land devoted to agricultural use, such statement shall indicate the acreage and description of each parcel of such land. The tax statement shall also indicate separately each parcel of real property which is separately classified for property tax purposes. The county appraiser shall provide the information necessary for the county treasurer to comply with the provisions of this section. The tax statement also may include the intangible tax due the county. All items may be on one statement or may be shown on separate statements and may be on a form prescribed by the county treasurer. The statement shall be mailed to the last known address of the taxpayer or to a designee authorized by the taxpayer to accept the tax statement, if the designee has an interest in receiving the statement. When any statement is returned to the county treasurer for failure to find the addressee, the treasurer shall make a diligent effort to find a forwarding address of the taxpayer and mail the statement to the new address. All tax statements mailed pursuant to this section shall be mailed by first-class mail. The requirement for mailing a tax statement shall extend only to the initial statement required to be mailed in each year and to any follow-up required by this section.

(c) For tax year 1998, and all tax years thereafter, after receipt of the tax roll from the county clerk and before December 15, the treasurer shall mail to each taxpayer, as shown by the tax rolls, a tax information form which indicates the taxing unit, assessed value of real property for the current and next preceding taxable year, the mill levy for the current and next preceding taxable year and, in the case of unified school districts, the mill levy required by ~~K.S.A. 72-6431~~ *section 11*, and amendments thereto, shall be separately indicated, the tax due and an itemization of each taxing unit's mill levy for the current and next preceding taxable year and the percentage change in the amount of revenue produced therefrom, if any. In addition, with respect to land devoted to agricultural use, such form shall indicate the acreage and description of each parcel of such land. The tax information form shall also indicate separately each parcel of real property which is separately classified for property tax purposes. The county appraiser shall provide the information necessary for the county treasurer to comply with the provisions of this section. The tax information form may be separate from the tax statement or a part of the tax statement. The tax information form shall be in a format prescribed by the director of property valuation. The tax information form shall be mailed to the last known address of the taxpayer. When a tax information form is returned to the county treasurer for failure to find the addressee, the treasurer shall make a diligent effort to find a forwarding address of the taxpayer and mail the tax information form to the new address. All tax information forms mailed pursuant to this section shall be mailed by first class mail.

Sec. 76. From and after July 1, 2015, K.S.A. 2014 Supp. 79-2925b is hereby amended to read as follows: 79-2925b. (a) Without a majority vote so providing, the governing body of any 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, 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 section 11*, 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 mu-

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; 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.

(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.

(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. 77. From and after July 1, 2015, K.S.A. 79-5105 is hereby amended to read as follows: 79-5105. (a) A tax is hereby levied upon every motor vehicle, as the same is defined by K.S.A. 79-5101, and amendments thereto, in an amount which shall be determined in the manner herein-after prescribed, except that: (1) (A) For 1995, the tax on any motorcycle shall not be less than \$6 and the tax on any other motor vehicle shall not be less than \$12; and (B) the tax on each motor vehicle the age of which is 15 years or older shall not be more than \$12; and (2) for 1996, and each year thereafter: (A) The tax on any motorcycle shall not be less than \$12 and the tax on any other motor vehicle shall not be less than \$24, except as otherwise provided by clause (B) and (C); (B) the tax on any motorcycle the model year of which is 1980 or earlier shall be \$6 and the

tax on any other motor vehicle the model year of which is 1980 or earlier shall be \$12; and (C) if the tax on any motorcycle in 1995 was more than \$6 but less than \$12, the tax shall be determined for 1996 and each year thereafter in the manner hereinafter prescribed but shall not be less than \$6, and if the tax on any other motor vehicle in 1995 was more than \$12 but less than \$24, the tax shall be determined for 1996 and each year thereafter in the manner hereinafter prescribed but shall not be less than \$12.

(b) The amount of such tax on a motor vehicle shall be computed by: (1) Determining the amount representing the midpoint of the values included within the class in which such motor vehicle is classified under K.S.A. 79-5102 or 79-5103, and amendments thereto, except that the midpoint of class 20 shall be \$21,000 plus \$2,000 for each \$2,000 or portion thereof by which the trade-in value of the vehicle exceeds \$22,000; (2) if the model year of the motor vehicle is a year other than the year for which the tax is levied, by reducing such midpoint amount by an amount equal to 16% in 1995, and all years prior thereto, and 15% in 1996, and all years thereafter, of the remaining balance for each year of difference between the model year of the motor vehicle and the year for which the tax is levied if the model year of the motor vehicle is 1981 or a later year or (B) the remaining balance for each year of difference between the year 1980 and the year for which the tax is levied if the model year of the motor vehicle is 1980 or any year prior thereto; (3) by multiplying the amount determined after application of clause (2) above by 30% during calendar year 1995, 28.5% during the calendar year 1996, 26.5% during the calendar year 1997, 24.5% during the calendar year 1998, 22.5% during the calendar year 1999, and 20% during all calendar years thereafter, which shall constitute the taxable value of the motor vehicle; and (4) by multiplying the taxable value of the motor vehicle produced under clause (3) above by the county average tax rate.

(c) 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 levying such taxes within such county in the second calendar year before the calendar year in which the owner's full registration year begins divided by the total assessed tangible valuation of property within such county as of November 1 of such second calendar year before the calendar year in which the owner's full registration year begins as certified by the secretary of revenue, except that: ~~(1) As of November 1, 1994, such rate shall be computed without regard to 11.429% of the general property taxes levied by school districts pursuant to K.S.A. 72-6431, and amendments thereto; (2) as of November 1, 1995, such rate shall be computed without regard to 31.429% of the general property taxes levied by school districts pursuant to K.S.A. 72-6431, and amendments thereto; (3) as of November 1, 1996, such rate shall be computed without regard to 54.286% of the general property taxes levied by school~~

~~districts pursuant to K.S.A. 72-6431, and amendments thereto, (4) as of November 1, 1997, such rate shall be computed without regard to 70.36% of the general property taxes levied by school districts pursuant to K.S.A. 72-6431, and amendments thereto, and (5) as of November 1, 1998, and such date in all years thereafter, such rate shall be computed without regard to the general property taxes levied by school districts pursuant to K.S.A. 72-6431, and amendments thereto law.~~

New Sec. 78. Nothing in this act shall affect or invalidate any resolution adopted by a board of education of any school district pursuant to K.S.A. 72-8801 or 72-8809, and amendments thereto, on and after May 1, 2014, but prior to July 1, 2015.

Sec. 79. On and after July 1, 2015, K.S.A. 2014 Supp. 72-8801 is hereby amended to read as follows: 72-8801. (a) The board of education of any school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate ~~for a period of not to exceed five years~~ upon the taxable tangible property in the school district for the purposes specified in this act and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. No levy shall be made under this act until a resolution is adopted by the board of education in the following form:

Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas.

RESOLUTION

Be It Resolved that:

The above-named school board shall be authorized to make an annual tax levy for a period not to exceed \_\_\_\_\_ years in an amount not to exceed \_\_\_\_\_ mills upon the taxable tangible property in the school district for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing, maintaining and equipping of school district property and equipment necessary for school district purposes, including: (1) Acquisition of computer software; (2) acquisition of performance uniforms; (3) housing and boarding pupils enrolled in an area vocational school operated under the board; (4) architectural expenses; (5) acquisition of building sites; (6) undertaking and maintenance of asbestos control projects; (7) acquisition of school buses; and (8) acquisition of other fixed assets, and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. The tax levy authorized by this resolution may be made, unless a petition in opposition to the same, signed by not less than 10% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 40 calendar days after the last publication of this resolution. In the event a petition is filed, the county election officer shall submit the question of whether the tax levy shall be authorized to the electors in the school district at an election called for that purpose or at the next general election, as is specified by the board of education of the above 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 above resolution shall be appropriately filled. The blank preceding the word “years” shall be filled with a specific number, and the blank preceding the word “mills” shall be filled with a specific number, and no word shall be inserted in either of the blanks. The resolution shall be published once a week for two consecutive weeks in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board of education may make the tax levy specified in the resolution. If a petition is filed as provided in the resolution, the board of education may notify the county election officer of the date of an election to be held to submit the question of whether the tax levy shall be authorized. If the board of education fails to notify the county election officer within 60 calendar days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board of education within the nine months following the first publication of the resolution.

(b) As used in this act:

(1) “Unconditionally authorized to make a capital outlay tax levy” means that the school district has adopted a resolution under this section, has published the same, and either that the resolution was not protested or that it was protested and an election has been held by which the tax levy specified in the resolution was approved;

(2) “statutorily prescribed mill rate” means: (A) Eight mills; (B) the mill levy rate in excess of eight mills if the resolution fixing such rate was approved at an election prior to the effective date of this act; or (C) the mill levy rate in excess of eight mills if no petition or no sufficient petition was filed in protest to a resolution fixing such rate in excess of eight mills and the protest period for filing such petition has expired;

(3) “asbestos control project” means any activity which is necessary or incidental to the control of asbestos-containing material in buildings of school districts and includes, but not by way of limitation, any activity undertaken for the removal or encapsulation of asbestos-containing material, for any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation, for conducting inspections, reinspections and periodic surveillance of buildings, performing response actions, and developing, implementing and updating operations and maintenance programs and management plans;

(4) “asbestos” means the asbestiform varieties of chrysotile (serpen-

tine), crocidolite (riebeckite), amosite (cummingtonitegrunerite), anthophyllite, tremolite, and actinolite; and

(5) “asbestos-containing material” means any material or product which contains more than 1% asbestos.

Sec. 80. K.S.A. 2014 Supp. 72-6434, 72-6460 and 72-8814, as amended by section 54 of 2015 House Substitute for Senate Bill No. 4 are hereby repealed.

Sec. 81. From and after July 1, 2015, K.S.A. 12-1677, 12-1775a, 72-1414, 72-6406, 72-6408, 72-6411, 72-6415, 72-6418, 72-6419, 72-6424, 72-6427, 72-6429, 72-6432, 72-6436, 72-6437, 72-6444, 72-6446, 72-6447, 72-6622, 72-6757, 72-8190, 72-8230, 72-8233, 72-8236, 72-8309, 72-8908, 79-2001 and 79-5105 and K.S.A. 2014 Supp. 10-1116a, 12-1770a, 12-1776a, 46-3401, 46-3402, 72-978, 72-1046b, 72-1398, 72-1923, 72-3607, 72-3711, 72-3712, 72-3715, 72-3716, 72-5333b, 72-6405, 72-6407, 72-6409, 72-6410, 72-6412, 72-6413, 72-6414, 72-6414a, 72-6414b, 72-6415b, 72-6416, 72-6417, 72-6420, 72-6421, 72-6423, 72-6425, 72-6426, 72-6428, 72-6430, 72-6431, 72-6433, 72-6433d, 72-6434, as amended by section 38 of this act, 72-6434b, 72-6435, 72-6438, 72-6439, 72-6439a, 72-6441, 72-6441a, 72-6442b, 72-6443, 72-6445a, 72-6448, 72-6449, 72-6450, 72-6451, 72-6452, 72-6453, 72-6455, 72-6456, 72-6457, 72-6458, 72-6460, as amended by section 39 of this act, 72-6461, 72-64b01, 72-64c03, 72-64c05, 72-6624, 72-6625, 72-67,115, 72-7535, 72-8187, 72-8237, 72-8249, 72-8250, 72-8251, 72-8302, 72-8316, 72-8415b, 72-8801, 72-8801a, 72-8804, 72-8814, as amended by section 63 of this act, 72-8814b, 72-8815, 72-9509, 72-9609, 72-99a02, 74-32,141, 74-4939a, 74-8925, 74-99b43, 75-2319, 79-201x, 79-213, 79-213f and 79-2925b are hereby repealed.

Sec. 82. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved March 25, 2015.

Published in the *Kansas Register* April 2, 2015.

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## CHAPTER 5

HOUSE BILL No. 2053  
(Amended by Chapter 90)

AN ACT concerning crimes, punishment and criminal procedure; relating to calculation of criminal history; amending K.S.A. 2014 Supp. 21-6810 and 21-6811 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 21-6810 is hereby amended to read as follows: 21-6810. (a) Criminal history categories contained in the sen-

tencing guidelines grids are based on the following types of prior convictions: Person felony adult convictions, nonperson felony adult convictions, person felony juvenile adjudications, nonperson felony juvenile adjudications, person misdemeanor adult convictions, nonperson class A misdemeanor adult convictions, person misdemeanor juvenile adjudications, nonperson class A misdemeanor juvenile adjudications, select class B nonperson misdemeanor adult convictions, select class B nonperson misdemeanor juvenile adjudications and convictions and adjudications for violations of municipal ordinances or county resolutions which are comparable to any crime classified under the state law of Kansas as a person misdemeanor, select nonperson class B misdemeanor or nonperson class A misdemeanor. A prior conviction is any conviction, other than another count in the current case which was brought in the same information or complaint or which was joined for trial with other counts in the current case pursuant to K.S.A. 22-3203, and amendments thereto, which occurred prior to sentencing in the current case regardless of whether the offense that led to the prior conviction occurred before or after the current offense or the conviction in the current case.

(b) A class B nonperson select misdemeanor is a special classification established for weapons violations. Such classification shall be considered and scored in determining an offender's criminal history classification.

(c) Except as otherwise provided, all convictions, whether sentenced consecutively or concurrently, shall be counted separately in the offender's criminal history.

(d) Except as provided in K.S.A. 2014 Supp. 21-6815, and amendments thereto, the following are applicable to determining an offender's criminal history classification:

(1) Only verified convictions will be considered and scored.

(2) All prior adult felony convictions, including expungements, will be considered and scored. *Prior adult felony convictions for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed;*

(3) There will be no decay factor applicable for:

(A) Adult convictions;

(B) a juvenile adjudication for an offense which would constitute a person felony if committed by an adult. *Prior juvenile adjudications for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed;*

(C) a juvenile adjudication for an offense committed before July 1, 1993, which would have been a class A, B or C felony, if committed by an adult; or

(D) a juvenile adjudication for an offense committed on or after July

1, 1993, which would be an off-grid felony, a nondrug severity level 1, 2, 3, 4 or 5 felony, a drug severity level 1, 2 or 3 felony for an offense committed on or after July 1, 1993, but prior to July 1, 2012, or a drug severity level 1, 2, 3 or 4 felony for an offense committed on or after July 1, 2012, if committed by an adult.

(4) Except as otherwise provided, a juvenile adjudication will decay if the current crime of conviction is committed after the offender reaches the age of 25, and the juvenile adjudication is for an offense:

(A) Committed before July 1, 1993, which would have been a class D or E felony if committed by an adult;

(B) committed on or after July 1, 1993, which would be a nondrug severity level 6, 7, 8, 9 or 10, a drug severity level 4 felony for an offense committed on or after July 1, 1993, but prior to July 1, 2012, or a drug severity level 5 felony for an offense committed on or after July 1, 2012, if committed by an adult; or

(C) which would be a misdemeanor if committed by an adult.

(5) All person misdemeanors, class A nonperson misdemeanors and class B select nonperson misdemeanors, and all municipal ordinance and county resolution violations comparable to such misdemeanors, shall be considered and scored. *Prior misdemeanors for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed.*

(6) Unless otherwise provided by law, unclassified felonies and misdemeanors, shall be considered and scored as nonperson crimes for the purpose of determining criminal history.

(7) Prior convictions of a crime defined by a statute which has since been repealed shall be scored using the classification assigned at the time of such conviction.

(8) Prior convictions of a crime defined by a statute which has since been determined unconstitutional by an appellate court shall not be used for criminal history scoring purposes.

(9) Prior convictions of any crime shall not be counted in determining the criminal history category if they enhance the severity level, elevate the classification from misdemeanor to felony, or are elements of the present crime of conviction. Except as otherwise provided, all other prior convictions will be considered and scored.

*(e) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.*

Sec. 2. K.S.A. 2014 Supp. 21-6811 is hereby amended to read as follows: 21-6811. In addition to the provisions of K.S.A. 2014 Supp. 21-6810, and amendments thereto, the following shall apply in determining an offender's criminal history classification as contained in the presumptive sentencing guidelines grids:

(a) Every three prior adult convictions or juvenile adjudications of class A and class B person misdemeanors in the offender's criminal history, or any combination thereof, shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes. Every three prior adult convictions or juvenile adjudications of assault as defined in K.S.A. 21-3408, prior to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5412(a)~~, and amendments thereto, occurring within a period commencing three years prior to the date of conviction for the current crime of conviction shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes.

(b) A conviction of criminal possession of a firearm as defined in ~~subsection (a)(1) or (a)(5) of K.S.A. 21-4204(a)(1) or (a)(5)~~, prior to its repeal, criminal use of weapons as defined in ~~subsection (a)(10) or (a)(11) of K.S.A. 2014 Supp. 21-6301(a)(10) or (a)(11)~~, and amendments thereto, or unlawful possession of a firearm as in effect on June 30, 2005, and as defined in K.S.A. 21-4218, prior to its repeal, will be scored as a select class B nonperson misdemeanor conviction or adjudication and shall not be scored as a person misdemeanor for criminal history purposes.

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for ~~subsection (b) of K.S.A. 21-3404(b)~~, as in effect on June 30, 1996, involuntary manslaughter in the commission of driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A. 8-1567, and amendments thereto, shall count as one person felony for criminal history purposes.

(2) If the current crime of conviction was committed on or after July 1, 1996, and is for a violation of ~~subsection (a)(3) of K.S.A. 2014 Supp. 21-5405(a)(3)~~, and amendments thereto, each prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for: (A) An act described in K.S.A. 8-1567, and amendments thereto; or (B) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the act described in K.S.A. 8-1567, and amendments thereto, shall count as one person felony for criminal history purposes.

(d) Prior burglary adult convictions and juvenile adjudications will be scored for criminal history purposes as follows:

(1) As a prior person felony if the prior conviction or adjudication was classified as a burglary as defined in ~~subsection (a) of K.S.A. 21-3715(a)~~, prior to its repeal, or ~~subsection (a)(1) of K.S.A. 2014 Supp. 21-5807(a)(1)~~, and amendments thereto.

(2) As a prior nonperson felony if the prior conviction or adjudication was classified as a burglary as defined in ~~subsection (b) or (c) of K.S.A. 21-3715(b) or (c)~~, prior to its repeal, or ~~subsection (a)(2) or (a)(3) of K.S.A. 2014 Supp. 21-5807(a)(2) or (a)(3)~~, and amendments thereto.

The facts required to classify prior burglary adult convictions and ju-

venile adjudications shall be established by the state by a preponderance of the evidence.

(e) Out-of-state convictions and juvenile adjudications shall be used in classifying the offender's criminal history. An out-of-state crime will be classified as either a felony or a misdemeanor according to the convicting jurisdiction. If a crime is a felony in another state, it will be counted as a felony in Kansas. The state of Kansas shall classify the crime as person or nonperson. In designating a crime as person or nonperson, comparable offenses *under the Kansas criminal code in effect on the date the current crime of conviction was committed* shall be referred to. If the state of Kansas does not have a comparable offense *in effect on the date the current crime of conviction was committed*, the out-of-state conviction shall be classified as a nonperson crime. Convictions or adjudications occurring within the federal system, other state systems, the District of Columbia, foreign, tribal or military courts are considered out-of-state convictions or adjudications. The facts required to classify out-of-state adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(f) Except as provided in ~~subsections (d)(4), (d)(5) or (d)(6) of K.S.A. 21-4710(d)(4), (d)(5) and (d)(6), prior to its repeal, or subsections (d)(3)(B), (d)(3)(C), (d)(3)(D) and (d)(4) of K.S.A. 2014 Supp. 21-6810(d)(3)(B), (d)(3)(C), (d)(3)(D) and (d)(4), and amendments thereto,~~ juvenile adjudications will be applied in the same manner as adult convictions. Out-of-state juvenile adjudications will be treated as juvenile adjudications in Kansas.

(g) A prior felony conviction of an attempt, a conspiracy or a solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2014 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, to commit a crime shall be treated as a person or nonperson crime in accordance with the designation assigned to the underlying crime.

(h) Drug crimes are designated as nonperson crimes for criminal history scoring.

(i) If the current crime of conviction is for a violation of ~~subsections (b)(2) through (b)(4) of K.S.A. 8-1602(b)(3) through (b)(5), and amendments thereto,~~ each of the following prior convictions *for offenses* committed on or after July 1, 2011, shall count as a person felony for criminal history purposes: K.S.A. 8-235, 8-262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605 and 40-3104, and amendments thereto, and ~~sub~~ ~~section (a)(3) of K.S.A. 2014 Supp. 21-5405(a)(3) and 21-5406, and amendments thereto,~~ or a violation of a city ordinance or law of another state which would also constitute a violation of such sections.

(j) *The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.*

New Sec. 3. If any provision of this act is held invalid, the invalidity shall not affect other provisions or applications of the act, and to this end the provisions of this act are severable.

Sec. 4. K.S.A. 2014 Supp. 21-6810 and 21-6811 are hereby repealed.

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

Approved March 25, 2015.

Published in the *Kansas Register* April 2, 2015.

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## CHAPTER 6

### HOUSE BILL No. 2023

AN ACT concerning legislative review of exceptions to open records; amending K.S.A. 2014 Supp. 45-229 and 60-3351 and repealing the existing sections.

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

Section 1. K.S.A. 2014 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 disclosure 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 over-

ride 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(a)(1) through (43)~~, 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 and which have been reviewed during the 2015 legislative session and continued in existence by the legislature as provided in subsection (g)~~ 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(a)(45), (46) and (49), 48-16a10, 58-4616, 60-3351, 72-972a, 74-50,217, 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) 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: 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-17,150, 12-2001, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, ~~subsections (a)(44), (45), (46), (47) and (48) of 45-221(a)(44), (45), (46), (47) and (48), 50-6a11, 56-1a610, 56a-1204, 65-1,243, 65-16,104, 65-3239, 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. 2. K.S.A. 2014 Supp. 60-3351 is hereby amended to read as follows: 60-3351. (a) Except as provided in K.S.A. 60-3352 and 60-3353, and amendments thereto, an insurance compliance self-evaluative audit document is privileged information and is not discoverable, or admissible as evidence in any legal action in any civil, criminal or administrative proceeding. The privilege created herein is a matter of substantive law of this state and is not merely a procedural matter governing civil or criminal procedures in the courts of this state.

(b) If any insurance company, person, or entity performs or directs the performance of an insurance compliance audit, an officer, employee or agent involved with the insurance compliance audit, or any consultant who is hired for the purpose of performing the insurance compliance audit, may not be examined in any civil, criminal or administrative proceeding as to the insurance compliance audit or any insurance compliance self-evaluative audit document, as defined in this section. This subsection (b) shall not apply if the privilege set forth in subsection (a) of this section is determined under K.S.A. 60-3352 and 60-3353, and amendments thereto, not to apply.

(c) Any insurance company may voluntarily submit, in connection with any examination conducted under chapter 40 of the Kansas Statutes Annotated, and amendments thereto, an insurance compliance self-evaluative audit document to the commissioner as a confidential document in the same manner as provided in chapter 40 of the Kansas Statutes Annotated, and amendments thereto, for documents required to be provided to the commissioner in the course of an examination by the commissioner without waiving the privilege set forth in this section to which the insurance company would otherwise be entitled. Any provision in chapter 40 of the Kansas Statutes Annotated, and amendments thereto, permitting the commissioner to make confidential documents public or to grant the national association of insurance commissioners access to confidential documents shall not apply to the insurance compliance self-evaluative audit document voluntarily submitted by an insurance company. To the extent that the commissioner has the authority to compel the disclosure of an insurance compliance self-evaluative audit document under other provisions of applicable law, any such report furnished to the commissioner shall not be provided to any other persons or entities and

shall be accorded the same confidentiality and other protections as provided above for voluntarily submitted documents. Any use of an insurance compliance self-evaluative audit document furnished as a result of a request of the commissioner under a claim of authority to compel disclosure shall be limited to determining whether or not any disclosed defects in an insurers' policies and procedures or inappropriate treatment of customers has been remedied or that an appropriate plan for their remedy is in place.

(1) Any insurance company's insurance compliance self-evaluative audit document submitted to the commissioner shall remain subject to all applicable statutory or common law privileges including, but not limited to, the work product doctrine, attorney-client privilege, or the subsequent remedial measures exclusion.

(2) Any compliance self-evaluative audit document so submitted and in the possession of the commissioner shall remain the property of the insurance company and shall not be subject to any disclosure or production under the Kansas open records act. ~~The provision of this paragraph shall expire on July 1, 2015, unless the legislature reenacts such provision. The provision of this paragraph shall be reviewed by the legislature prior to July 1, 2015.~~

(d) Disclosure of an insurance compliance self-evaluative audit document to a governmental agency, whether voluntary or pursuant to compulsion of law, shall not constitute a waiver of the privilege set forth in subsection (a) with respect to any other persons or any other governmental agencies. Nothing in this act shall prohibit the division of post audit from having access to all insurance compliance self-evaluative audit documents in the custody of the commissioner.

Sec. 3. K.S.A. 2014 Supp. 45-229 and 60-3351 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 30, 2015.

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## CHAPTER 7

HOUSE BILL No. 2066

AN ACT concerning insurance companies; relating to investments; amending K.S.A. 40-2a05, 40-2a12, 40-2a16, 40-2a25, 40-2a26, 40-2b04, 40-2b05, 40-2b09, 40-2b13, 40-2b26 and 40-2b27 and K.S.A. 2014 Supp. 40-2a27, 40-2a28, 40-2b28 and 40-2b29 and repealing the existing sections.

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

Section 1. K.S.A. 40-2a05 is hereby amended to read as follows: 40-2a05. Any insurance company other than life heretofore or hereafter or-

ganized 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 bonds or other evidences of indebtedness issued, assumed or guaranteed by a ~~corporation or trust~~ *business entity* organized 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 which are designated “1” or “2” by the ~~national association of insurance commissioners in their most recently published Valuations of Securities Manual SVO or are rated investment grade in Standard & Poor’s (at least BBB-) or Moody’s (at least Baa3) corporate bond guides~~ *its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO* at the time of acquisition; or which meet the following qualifications:

(a) If fixed-interest bearing obligations, the average fixed charges shall have been covered at least 1½ times by the average net earnings available for fixed charges of the last five years, and the ~~company~~ *business entity* shall have earnings in two of the last three fiscal years immediately preceding the date of acquisition. In the case of obligations of finance companies, the coverage shall be at least 1¼ times;

(b) if income, or other contingent interest obligations, the net earnings available for fixed charges of the ~~corporation~~ *business entity* for the five fiscal years next preceding the date of acquisition of the obligations shall have averaged per year not less than 1½ times the sum of the fixed charges and the maximum contingent interest to which the ~~corporation~~ *business entity* is subject as of the date of acquisition, and the company shall have earnings in two of the last three fiscal years immediately preceding the date of acquisition. In the case of obligations of finance companies, the coverage shall be at least 1¼ times;

(c) the ~~corporation~~ *business entity* or a predecessor thereof must have been in existence for a period of not less than five years;

(d) investments in any ~~corporate~~ obligations under this act shall not be eligible if the ~~corporation~~ *business entity* is in default on any fixed obligations as of the date of acquisition. Statements adjusted to show the actual condition at the time of acquisition or at effect of new financing (known commercially as pro forma statements) may be used when determining investments in this act or in compliance with requirements.

(e) As used in this section:

(1) The term “fixed charges” ~~shall include~~ *includes* actual interest incurred in each year on funded and unfunded debt. In the testing of obligations where interest is partially or entirely contingent upon earnings, fixed charges shall include contingent interest payments; ~~and~~

(2) the term “net earnings available for fixed charges” ~~shall mean~~ *means* income, before deducting interest on funded and unfunded debt and after deducting operating and maintenance expenses, taxes other than

income taxes, depreciation and depletion. Extraordinary, nonrecurring items of income or expense shall be excluded;

(3) *the term “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;*

(4) *the term “NAIC” means the national association of insurance commissioners; and*

(5) *the term “SVO” means the securities valuation office of the NAIC or any successor office established by the NAIC.*

Sec. 2. K.S.A. 40-2a12 is hereby amended to read as follows: 40-2a12. 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:

(a) Bonds, notes, obligations or other evidences of indebtedness *directly or indirectly* secured by mortgages or deeds of trust which are a first or second lien upon *otherwise* unencumbered real property and appurtenances thereto within the United States of America or any insular or territorial possession of the United States of America, or the Dominion of Canada, and upon leasehold estates in real property wherein the term of such including any options to extend is not less than 15 years beyond the maturity of the loan as made or extended. At the date of acquisition the total indebtedness secured by such lien shall not exceed ~~80%~~ 90% of the market value of the property upon which it is a lien. These limitations shall not apply to obligations described in subsections (b), (c), (d) and (e) of this section. For the purpose of this section a mortgage or deed of trust shall not be deemed to be other than a first or second lien upon property within the meaning of this section by reason of the existence of taxes or assessments against real property and appurtenances thereto that are not delinquent, instruments creating or reserving mineral, oil or timber rights, rights of way, joint driveways, sewer rights, rights in walls or by reason of building restrictions or other like restrictive covenants, or when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner or when there is in existence a fixed obligation or lien against the property where an escrow account or indemnification bond is or has been established or obtained sufficient to cover the maximum liability created by such obligation or lien;

(b) bonds, notes or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed or insured by the United States government or any agency or instrumentality thereof. Any uninsured or nonguaranteed portion shall not exceed 75% of the total amount;

(c) contracts of sale, purchase money mortgages or deeds of trust

secured by property obtained through foreclosure or in settlement or satisfaction of any indebtedness;

(d) bonds, notes, obligations or other evidences of indebtedness *directly or indirectly* secured by mortgages or deeds of trust which are a first or second lien upon *otherwise* unencumbered personal and real property, including a leasehold of real estate, under lease, purchase contract or lease purchase contract to any governmental body or instrumentality whose obligations qualify under K.S.A. 40-2a01, 40-2a02 or 40-2a03, and amendments ~~to those sections~~ *thereto*, or to a corporation whose obligations qualify under K.S.A. 40-2a05, and amendments thereto, if there is adequate rental, after making allowances of lessors' or sellers' obligations and liabilities, if any, under the terms of the lease or contract, to retire the loan as to payment of principal and interest and such rentals are pledged or assigned to the lender;

(e) bonds, notes or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed or insured, in accordance with the terms and provisions of an act of the federal parliament of the Dominion of Canada approved March 18, 1954, cited as the "national housing act, 1954," as heretofore and hereafter amended;

(f) ~~first~~ mortgages or deeds of trust upon improved real property to be occupied as a personal residence by an officer of the insurer, if the mortgage is at an interest rate that is no less than the prevailing rate of the insurer's existing portfolio of mortgage loans. Mortgages or deeds of trust entered into pursuant to this subsection shall be subject to the conditions set forth in subsection (a) of this section relating to mortgages or deeds of trust generally.

Sec. 3. K.S.A. 40-2a16 is hereby amended to read as follows: 40-2a16. 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 investments whether or not qualified and permitted under this act and notwithstanding any conditions or limitations prescribed therein, in an aggregate amount not more than 10% of its admitted assets as shown by the company's last annual report as filed with the commissioner of insurance *or a more recent quarterly financial statement filed with the commissioner*, except that investments shall not be permitted in insolvent organizations or organizations in default with respect to the payment of principal or interest.

Sec. 4. K.S.A. 40-2a25 is hereby amended to read as follows: 40-2a25. 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:

(a) Mortgage related securities issued or guaranteed by the federal

home loan mortgage corporation and federal national mortgage association but the amount invested in any one such issue shall not exceed the greater of \$750,000 or two percent of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance;

(b) mortgage related securities issued by or in the name of any private entity which are designated “1” or “2” by the ~~national association of insurance commissioners in their most recently published valuations of securities manual or supplement thereto~~ SVO or are rated investment grade by Standard and Poor’s (at least BBB-) or Moody’s (at least Baa3) *its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO* at the time of acquisition. The investment in any one such issue shall not exceed two percent of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance.

(c) For purposes of this section, “mortgage related securities” shall mean a security that either:

(1) Represents ownership of one or more promissory notes or certificates of interest or participation in such notes—(, including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of such notes, certificates, or participations of amounts payable under, such notes, certificates, or participations), which notes:

(A) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in U.S.C. § 5402(6) of title 42, whether such manufactured home is considered real or personal property under the laws of the state in which it is to be located; and

(B) were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution which is supervised and examined by a federal or state authority, or by a mortgagee approved by the secretary of housing and urban development pursuant to U.S.C. §§ 1709 and 1715b of title 12, or, where such notes involve a lien on the manufactured home, by any such institution or by any financial institution approved for insurance by the secretary of housing and urban development pursuant to U.S.C. § 1703 of title 12; or

(2) is secured by one or more promissory notes or certificates of interest or participations in such notes—(, with or without recourse to the issuer thereof), and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the requirements of subparagraphs (1)(A) and (B) or certificates of interest or participations in promissory notes meeting such requirements.

For the purposes of this paragraph, the term “promissory note,” when

used in connection with a manufactured home, shall also include a loan, advance, or credit sale as evidenced by a retail installment sales contract or other instrument; or

(3) involve offers or sales of one or more promissory notes directly secured by a first lien on a single parcel of real estate upon which is located a dwelling or other residential or commercial structure, and participation interests in such notes:

(A) Where such securities are originated by a savings and loan association, savings bank, commercial bank, or similar banking institution which is supervised and examined by a federal or state authority, and are offered and sold subject to the following conditions:

(i) The minimum aggregate sales price per purchaser shall not be less than \$250,000;

(ii) the purchaser shall pay cash either at the time of the sale or within 60 days thereof; and

(iii) each purchaser shall buy for such purchaser's own account only;

or

(B) where such securities are originated by a mortgagee approved by the secretary of housing and urban development pursuant to U.S.C. §§ 1709 and 1715b of title 12 and are offered or sold subject to the three conditions specified in subparagraph (3)(A) to any institution described in such subparagraph or to any insurance company subject to the supervision of the insurance commissioner, or any agency or officer performing like function, of any state or territory of the United States or the District of Columbia, or the federal home loan mortgage corporation, the federal national mortgage association, or the government national mortgage association.

Transactions between any of the entities described in subparagraph (3)(A) or (3)(B) involving nonassignable contracts to buy or sell the foregoing securities which are to be completed within two years, where the seller of the foregoing securities pursuant to any such contract is one of the parties described in subparagraph (3)(A) or (3)(B) who may originate such securities and the purchaser of such securities pursuant to any such contract is any institution described in subparagraph (3)(A) or any insurance company described in subparagraph (3)(B), the federal home loan mortgage corporation, federal national mortgage association, or the government national mortgage association and where the foregoing securities are subject to the three conditions for sale set forth in subparagraphs (3)(A)(i) through (iii).

Sec. 5. K.S.A. 40-2a26 is hereby amended to read as follows: 40-2a26. As used in K.S.A. 40-2a27 of this act:

(a) "Medium grade obligations" means obligations which are designated "3" by the national association of insurance commissioners in its most recently published valuations of securities manual *SVO or its equiv-*

*alent rating by a nationally recognized statistical rating organization recognized by the SVO.*

(b) “Lower grade obligations” means obligations which are designated “4,” “5” or “6” by the ~~national association of insurance commissioners in its most recently published valuations of securities manual~~ *SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO.*

(c) “Admitted assets” means the amount shown on the insurer’s last annual report as filed with the state commissioner of insurance *or a more recent quarterly financial statement filed with the commissioner.*

(d) “Aggregate amount” of medium grade and lower grade obligations means the aggregate statutory statement value thereof.

(e) “Institution” means a corporation, a joint-stock company, an association, a trust, a business partnership, a business joint venture or similar entity.

(f) “Insurance company” or “insurer” means an insurance company other than life organized under the laws of this state.

Sec. 6. K.S.A. 2014 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 by the SVO~~ *or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO*; and, no more than one percent of its admitted assets shall consist of obligations designated “6” ~~in the valuations of securities manual by the SVO~~ *or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO*. 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 article 2a of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(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. 7. K.S.A. 2014 Supp. 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~~ *SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO*;

(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.

(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;

(3) “NAIC” means the national association of insurance commissioners; and

(4) “SVO” means the securities valuation office of the NAIC or any successor office established by the NAIC.

Sec. 8. K.S.A. 40-2b04 is hereby amended to read as follows: 40-2b04.  
(a) As used in this section:

(1) “Business entity” means 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) “Domestic jurisdiction” means the United States, Canada, and a state or political subdivision of the United States or Canada.

(3) “Foreign currency” means a currency other than that of the United States or Canada.

(4) “Foreign investment” means an investment in a foreign jurisdiction or in an asset domiciled in a foreign jurisdiction. An investment shall not be deemed to be foreign if the issuing business entity, qualified primary credit source or qualified guarantor is a domestic jurisdiction or a business entity domiciled in a domestic jurisdiction, unless:

(A) The issuing business entity is a shell business entity; and

(B) the investment is not assumed, accepted, guaranteed or insured or otherwise backed by a domestic jurisdiction or a business entity, that is not a shell business entity, domiciled in a domestic jurisdiction.

(5) “Foreign jurisdiction” means a jurisdiction outside of the United States or Canada.

(6) “Qualified guarantor” means a guarantor against which an insurer has a direct claim for full and timely payment evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(7) “Qualified primary credit source” means the credit source to which an insurer looks for payment as to an investment and against which an insurer has a direct claim for full and timely payment evidenced by a

contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(8) “Shell business entity” means a business entity having no economic substance except as a vehicle for owning interests in assets issued, owned or previously owned by a business entity domiciled in a foreign jurisdiction.

(9) “SVO” means the securities valuation office of the national association of insurance commissioners or any successor office established by the national association of insurance commissioners.

(b) 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 foreign investments of the same types as those that an insurer is permitted to acquire under ~~K.S.A. 40-2b01, 40-2b02, 40-2b03, 40-2b05, 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27 and 40-2b28 and K.S.A. 40-2b29~~ *article 2b of chapter 40 of the Kansas Statutes Annotated*, and amendments thereto, if:

(1) The aggregate amount of foreign investments then held by the insurer does not exceed 20% of its admitted assets; and

(2) the aggregate amount of foreign investments then held by the insurer in a single foreign jurisdiction does not exceed 10% of its admitted assets for jurisdictions that have a sovereign debt rating of SVO 1, or 3% of its admitted assets for ~~all any other jurisdictions~~ *foreign jurisdiction*.

(c) 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 investments of the same types as those that an insurer is permitted to acquire under ~~K.S.A. 40-2b01, 40-2b02, 40-2b03, 40-2b05, 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27 and 40-2b28 and K.S.A. 40-2b29~~ *article 2b of chapter 40 of the Kansas Statutes Annotated*, and amendments thereto, which are denominated in foreign currencies, whether or not they are foreign investments acquired under subsection (b), if:

(1) The aggregate amount of investments then held by the insurer denominated in foreign currencies does not exceed 10% of its admitted assets; and

(2) the aggregate amount of investments then held by the insurer denominated in the foreign currency of a single foreign jurisdiction does not exceed 10% of its admitted assets for jurisdictions that have a sovereign debt rating of SVO 1, or 3% of its admitted assets for ~~all any other jurisdictions~~ *foreign jurisdiction*.

(d) Notwithstanding the provisions of K.S.A. 40-2b13, and amendments thereto, the insurer’s total foreign investments and investments denominated in foreign currencies shall not exceed the limitations set forth in subsections (b) and (c).

(e) The investment limitations in subsections (b) and (c) computed on the basis of an insurer's admitted assets shall relate to the amount as shown on the insurer'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.

(f) Investments acquired under this section shall be aggregated with investments of the same types made under ~~K.S.A. 40-2b01, 40-2b02, 40-2b03, 40-2b05, 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27 and 40-2b28~~ and ~~K.S.A. 40-2b29~~ *all other sections of article 2b of chapter 40 of the Kansas Statutes Annotated*, and amendments thereto, and in a similar manner, for purposes of determining compliance with the limits, if any, contained in the other sections.

Sec. 9. K.S.A. 40-2b05 is hereby amended to read as follows: 40-2b05. 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 bonds or other evidences of indebtedness issued, assumed, or guaranteed by a ~~corporation incorporated~~ *business entity organized* 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 which are designated "1" or "2" by the ~~national association of insurance commissioners in their most recently published Valuations of Securities Manual SVO or are rated investment grade in Standard & Poor's (at least BBB-) or Moody's (at least Baa3) corporate bond guides its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO~~ at the time of acquisition; or which meet the following qualifications:

(a) If fixed-interest bearing obligations, the average fixed charges shall have been covered at least 1½ times by the average net earnings available for fixed charges of the last five years, and the ~~company~~ *business entity* shall have earnings in two of the last three fiscal years immediately preceding the date of acquisition. In the case of obligations of finance companies, the coverage shall be at least 1¼ times;

(b) if income, or other contingent interest obligations, the net earnings available for fixed charges of the ~~corporation~~ *business entity* for the five fiscal years next preceding the date of acquisition of the obligations shall have averaged per year not less than 1½ times the sum of the fixed charges and the maximum contingent interest to which the ~~corporation~~ *business entity* is subject as of the date of acquisition, and the ~~company~~ *business entity* shall have earnings in two of the last three fiscal years immediately preceding the date of acquisition. In the case of obligations of finance companies, the coverage shall be at least 1¼ times;

(c) the ~~corporation~~ *business entity* or a predecessor thereof must have been in existence for a period of not less than five years;

(d) investments in any ~~corporate~~ obligations under this act shall not be eligible if the ~~corporation~~ *business entity* is in default on any fixed obligations as of the date of acquisition. Statements adjusted to show the actual condition at the time of acquisition or at effect of new financing (known commercially as pro forma statements) may be used when determining investments in this act or in compliance with requirements.

(e) (1) The term “fixed charges” ~~shall include~~ *includes* actual interest incurred in each year on funded and unfunded debt. In the testing of obligations where interest is partially or entirely contingent upon earnings fixed charges shall include contingent interest payments; ~~and~~

(2) the term “net earnings available for fixed charges” ~~shall mean~~ *means* income, before deducting interest on funded and unfunded debt and after deducting operating and maintenance expenses, taxes other than income taxes, depreciation and depletion. Extraordinary, nonrecurring items of income or expense shall be excluded;

(3) *the term “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;*

(4) *the term “NAIC” means the national association of insurance commissioners;*

(5) *the term “SVO” means the securities valuation office of the NAIC or any successor office established by the NAIC.*

Sec. 10. K.S.A. 40-2b09 is hereby amended to read as follows: 40-2b09. 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:

(a) Bonds, notes, obligations or other evidences of indebtedness *directly or indirectly* secured by mortgages or deeds of trust which are a first or second lien upon *otherwise* unencumbered real property and appurtenances thereto within the United States of America, or any insular or territorial possession of the United States, or the Dominion of Canada, and upon leasehold estates in real property wherein the term of such including any options to extend is not less than 15 years beyond the maturity of the loan as made or extended. At the date of acquisition the total indebtedness secured by such lien shall not exceed ~~80%~~ *90%* of the market value of the property upon which it is a lien, unless that portion of the total indebtedness in excess of ~~80%~~ *90%* of market value is insured by a mortgage insurance company authorized by the commissioner of insurance to do business in this state. These limitations shall not apply to obligations described in subsections (b), (c), (d), (e) and (f). For the pur-

pose of this section a mortgage or deed of trust shall not be deemed to be other than a first *or second* lien upon property within the meaning of this section by reason of the existence of taxes or assessments against real property and appurtenances thereto that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights of way, joint driveways, sewer rights, rights in walls or by reason of building restrictions or other like restrictive covenants, or when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner or when there is in existence a fixed obligation or lien against the property where an escrow account or indemnification bond is or has been established or obtained sufficient to cover the maximum liability created by such obligation or lien;

(b) bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed or insured by the United States government or any agency or instrumentality thereof or insured by any insurance company authorized to transact such business in this state. Any uninsured or nonguaranteed portion shall not exceed 75% of the total amount;

(c) contracts of sale, purchase money mortgages or deeds of trust secured by property obtained through foreclosure, or in settlement or satisfaction of any indebtedness;

(d) bonds, notes, obligations, or other evidences of indebtedness *directly or indirectly* secured by mortgages or deeds of trust which are a first *or second* lien upon *otherwise* unencumbered personal or real or both personal and real property, including a leasehold of real estate, under lease, purchase contract, or lease purchase contract to any governmental body or instrumentality whose obligations qualify under K.S.A. 40-2b01, 40-2b02 or 40-2b03, and amendments thereto, or to a corporation whose obligations qualify under K.S.A. 40-2b05, and amendments thereto, if there is adequate rental, after making allowance of lessors' or sellers' obligations and liabilities, if any, under the terms of the lease or contract, to retire the loan as to payments of principal and interest and such rentals are pledged or assigned to the lender;

(e) bonds, notes or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed or insured, in accordance with the terms and provisions of an act of the federal parliament of the Dominion of Canada approved March 18, 1954, cited as the national housing act, 1954, as heretofore and hereafter amended;

(f) participation in mortgage lending, *including, without limitation, the types of mortgage lending set forth in subsections (a) and (d)*, is specifically permitted in this section as between Kansas domiciled life insurance companies, or, between Kansas domiciled life insurance companies and life insurance companies organized under the laws of another country, state, or territory ~~and authorized to do business in the state of Kansas,~~ *or, between a Kansas domiciled life insurance company and its affiliates,*

or, between Kansas domiciled life insurance companies and banks, trust companies or savings and loan associations ~~located within the state of Kansas,~~ upon unencumbered real property and appurtenances thereto. At the date of acquisition the total indebtedness assumed by such lien shall not exceed ~~80%~~ 90% of the market value of the property upon which it is a lien, unless that portion of the total indebtedness in excess of ~~80%~~ 90% of market value is insured by a mortgage insurance company authorized by the commissioner of insurance to do business in this state;

(g) ~~first~~ mortgages or deeds of trust upon improved real property to be occupied as a personal residence by an officer of the insurer, if the mortgage is at an interest rate that is no less than the prevailing rate of the insurer's existing portfolio of mortgage loans. Mortgages or deeds of trust entered into pursuant to this subsection shall be subject to the conditions set forth in subsection (a) relating to mortgages or deeds of trust generally;

(h) tax lien certificates issued by local taxing authorities, which for reporting in the annual statement may be pooled by state and year of issue, but the amount invested shall not exceed 10% of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance.

Sec. 11. K.S.A. 40-2b13 is hereby amended to read as follows: 40-2b13. 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 investments whether or not qualified and permitted under this act and notwithstanding any conditions or limitations prescribed therein, in an aggregate amount not more than 10% of its admitted assets as shown by the company's last annual report as filed with the insurance commissioner *or a more recent quarterly financial statement filed with the commissioner*, except that investments shall not be permitted in insolvent organizations or organizations in default with respect to the payment of principal or interest.

Sec. 12. K.S.A. 40-2b26 is hereby amended to read as follows: 40-2b26. Any life insurance company 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:

(a) Mortgage related securities issued or guaranteed by the federal home loan mortgage corporation and federal national mortgage association but the amount invested in any one such issue shall not exceed the greater of \$750,000 or two percent of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance;

(b) mortgage related securities issued by or in the name of any private entity which are designated “1” or “2” by the ~~national association of insurance commissioners in their most recently published valuations of securities manual or supplement thereto SVO or are rated investment grade by Standard and Poor’s (at least BBB-) or Moody’s (at least Baa3)~~ *its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO* at the time of acquisition. The investment in any one such issue shall not exceed two percent of the admitted assets of the company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner of insurance;

(c) for purposes of this section “mortgage related securities” shall mean a security that either:

(1) Represents ownership of one or more promissory notes or certificates of interest or participation in such notes~~—~~, including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of such notes, certificates, or participations of amounts payable under, such notes, certificates, or participations~~),~~ which notes:

(A) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in U.S.C. § 5402(6) of title 42, whether such manufactured home is considered real or personal property under the laws of the state in which it is to be located; and

(B) were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution which is supervised and examined by a federal or state authority, or by a mortgagee approved by the secretary of housing and urban development pursuant to U.S.C. §§ 1709 and 1715b of title 12, or, where such notes involve a lien on the manufactured home, by any such institution or by any financial institution approved for insurance by the secretary of housing and urban development pursuant to U.S.C. § 1703 of title 12; or

(2) is secured by one or more promissory notes or certificates of interest or participations in such notes~~—~~, with or without recourse to the issuer thereof~~),~~ and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the requirements of subparagraphs (1)(A) and (B) or certificates of interest or participations in promissory notes meeting such requirements.

For the purposes of this paragraph, the term “promissory note,” when used in connection with a manufactured home, shall also include a loan, advance, or credit sale as evidenced by a retail installment sales contract or other instrument; or

(3) involve offers or sales of one or more promissory notes directly secured by a first lien on a single parcel of real estate upon which is

located a dwelling or other residential or commercial structure, and participation interests in such notes:

(A) Where such securities are originated by a savings and loan association, savings bank, commercial bank, or similar banking institution which is supervised and examined by a federal or state authority, and are offered and sold subject to the following conditions:

(i) The minimum aggregate sales price per purchaser shall not be less than \$250,000;

(ii) the purchaser shall pay cash either at the time of the sale or within 60 days thereof; and

(iii) each purchaser shall buy for such purchaser's own account only; or

(B) where such securities are originated by a mortgagee approved by the secretary of housing and urban development pursuant to U.S.C. §§ 1709 and 1715b of title 12 and are offered or sold subject to the three conditions specified in subparagraph (3)(A) to any institution described in such subparagraph or to any insurance company subject to the supervision of the insurance commissioner, or any agency or officer performing like function, of any state or territory of the United States or the District of Columbia, or the federal home loan mortgage corporation, the federal national mortgage association; or the government national mortgage association.

Transactions between any of the entities described in subparagraph (3)(A) or (3)(B) involving nonassignable contracts to buy or sell the foregoing securities which are to be completed within two years, where the seller of the foregoing securities pursuant to any such contract is one of the parties described in subparagraph (3)(A) or (3)(B) who may originate such securities and the purchaser of such securities pursuant to any such contract is any institution described in subparagraph (3)(A) or any insurance company described in subparagraph (3)(B), the federal home loan mortgage corporation, federal national mortgage association, or the government national mortgage association and where the foregoing securities are subject to the three conditions for sale set forth in subparagraphs (3)(A)(i) through (iii);

(d) *for purposes of this section:*

(1) "NAIC" means the national association of insurance commissioners; and

(2) "SVO" means the securities valuation office of the NAIC or any successor office established by the NAIC.

Sec. 13. K.S.A. 40-2b27 is hereby amended to read as follows: 40-2b27. As used in K.S.A. 40-2b28:

(a) "Medium grade obligations" means obligations which are designated "3" by the national association of insurance commissioners in its most recently published valuations of securities manual SVO or its equiv-

*alent rating by a nationally recognized statistical rating organization recognized by the SVO.*

(b) “Lower grade obligations” means obligations which are designated “4,” “5” or “6” by the ~~national association of insurance commissioners in its most recently published valuations of securities manual~~ *SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO.*

(c) “Admitted assets” means the amount shown on the insurer’s last annual report as filed with the state commissioner of insurance *or a more recent quarterly financial statement filed with the commissioner.*

(d) “Aggregate amount” of medium grade and lower grade obligations means the aggregate statutory statement value thereof.

(e) “Institution” means a corporation, a joint-stock company, an association, a trust, a business partnership, a business joint venture or similar entity.

(f) “Insurance company” or “insurer” means any life insurance company organized under the laws of this state.

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

(h) “SVO” means *the securities valuation office of the NAIC or any successor office established by the NAIC.*

Sec. 14. K.S.A. 2014 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 by the SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO;~~ and, no more than one percent of its admitted assets shall consist of obligations designated “6” ~~in the valuations of securities manual by the SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO.~~ 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 article 2b of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(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. 15. K.S.A. 2014 Supp. 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~~ *SVO or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO*; 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.

(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;

(3) “NAIC” means the national association of insurance commissioners; and

(4) “SVO” means the securities valuation office of the NAIC or any successor office established by the NAIC.

Sec. 16. K.S.A. 40-2a05, 40-2a12, 40-2a16, 40-2a25, 40-2a26, 40-2b04, 40-2b05, 40-2b09, 40-2b13, 40-2b26 and 40-2b27 and K.S.A. 2014 Supp. 40-2a27, 40-2a28, 40-2b28 and 40-2b29 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 30, 2015.

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## CHAPTER 8

### HOUSE BILL No. 2085

AN ACT concerning the Kansas turnpike authority; relating to annual reports; contracts between the secretary of transportation and the authority; director; amending K.S.A. 68-2015 and K.S.A. 2014 Supp. 68-2003, 68-2021 and 68-2021a and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 68-2003 is hereby amended to read as follows: 68-2003. (a) There is hereby created a body politic and corporate to be known as the Kansas turnpike 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 turnpike projects shall be deemed and held to be the performance of an essential governmental function.

(b) The Kansas turnpike authority shall consist of five members. Two

members shall be appointed by the governor for terms of four years. The members appointed by the governor shall be residents of the state and shall each year be owners of revenue bonds issued by the Kansas turnpike authority. One member of the authority shall be the secretary of transportation. One member shall be the chairperson of the committee on transportation of the senate, and one member shall be a member of the committee on transportation of the house of representatives and shall be appointed by the speaker of the house of representatives. Any person appointed by the governor to fill a vacancy on the authority shall be appointed to serve only for the unexpired term, and a member of the authority shall be eligible for reappointment. A member of the authority 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. Each member of the authority, before entering upon the member's duties, shall take and subscribe an oath or affirmation as required by law.

(c) The authority shall elect one member as chairperson of the authority and another as vice-chairperson. The authority shall also elect a secretary-treasurer who need not be a member of the authority. The chairperson, vice-chairperson and secretary-treasurer shall serve as officers at the pleasure of the authority. Three members of the authority shall constitute a quorum and the affirmative vote of three members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(d) Members of the Kansas turnpike authority attending meetings of such authority, or attending a subcommittee meeting thereof authorized by such authority, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(e) On and after July 1, 2013, the secretary of transportation shall serve as the director of operations of the authority. The director of operations shall be responsible for the daily administration of the toll roads, bridges, structures and facilities constructed, maintained or operated pursuant to this act. The director of operations or the director's designee shall have such powers as are necessary to carry out these responsibilities. ~~The provisions of this subsection shall expire and have no effect on and after July 1, 2016.~~

Sec. 2. K.S.A. 68-2015 is hereby amended to read as follows: 68-2015. Each turnpike project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the authority. Each such project shall also be policed and operated by such force of police,

toll-takers and other operating employees as the authority may in its discretion employ.

All private property damaged or destroyed in laying out and constructing said turnpike project shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this act.

All counties, cities, towns and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the authority at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, political subdivisions, agencies or commissions of the state may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including public roads and other real property already devoted to public use.

~~On or before the thirty-first day of March in each year~~ *Annually, prior to the 10th day of each regular session of the legislature*, the authority shall make an annual report of its activities for the preceding ~~calendar~~ *fiscal* year to the governor. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or operation of the project.

Any member, agent or employee of the authority who contracts with the authority or is interested, either directly or indirectly, in any contract with the authority or in the sale of any property, either real or personal, to the authority shall be punished by a fine of not more than ~~one thousand dollars (\$1,000)~~ *\$1,000* or by imprisonment for not more than ~~one (1)~~ year, or both.

Sec. 3. K.S.A. 2014 Supp. 68-2021 is hereby amended to read as follows: 68-2021. ~~On and after July 1, 2016~~, The secretary of transportation and the Kansas turnpike authority are hereby authorized and empowered to contract with each other, by the terms of which contract or contracts the secretary may undertake: (1) To provide personnel and equipment, either of the department of transportation or consulting or contracting firms, required in making any traffic and cost studies or surveys or origin-destination studies necessary preliminary to financing by the Kansas turnpike authority of any particular toll project undertaken as authorized by law, and to do such work; and

(2) to provide personnel and equipment required, and to do any en-

gineering, geological work, soils testing or materials testing which may be required by the Kansas turnpike authority either preliminary to the financing of any particular toll project authorized by law or which may be required after such financing and during the construction of such project. The charges for services contemplated by such project shall be made by the secretary of transportation on the basis of the total and actual cost to the department of all wages, salaries, expenses, equipment rental, damage to equipment, depreciation or other charges and expenses chargeable to the services to be rendered to the Kansas turnpike authority, except that the total amount of any credit and funds advanced hereunder shall not at any one time exceed the sum of \$250,000.

Sec. 4. K.S.A. 2014 Supp. 68-2021a is hereby amended to read as follows: 68-2021a. (a) The secretary of transportation and the Kansas turnpike authority are hereby authorized and empowered to contract with each other to provide personnel and equipment and other resources, either of the department of transportation, the Kansas turnpike authority or consulting or contracting firms for: (1) Recordkeeping, reporting, administrative, planning, engineering, legal and clerical functions; and (2) construction, operation and maintenance of turnpike projects and highways of the state.

(b) The Kansas turnpike authority shall retain its separate identity, powers and duties as an instrumentality of the state. Duplication of effort, facilities and equipment shall be minimized by the authority and the secretary of transportation in operation and maintenance of turnpikes and highways of the state. The authority and the secretary are authorized to take such action as necessary to implement this section, including the temporary transfer of personnel, property and equipment from the authority to the secretary, and the secretary to the authority, to effect contracts described in subsection (a). The integrity of the bonded indebtedness shall be maintained through the actions of the authority.

~~(c) The provisions of this section shall expire and have no effect on and after July 1, 2016.~~

Sec. 5. K.S.A. 68-2015 and K.S.A. 2014 Supp. 68-2003, 68-2021 and 68-2021a 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 30, 2015.

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## CHAPTER 9

## SENATE BILL No. 21

AN ACT concerning motor vehicles; relating to commercial vehicles; motor carriers; regulation; amending K.S.A. 2014 Supp. 66-1,109 and 66-1,129 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 66-1,109 is hereby amended to read as follows: 66-1,109. This act shall not require the following carriers to obtain a certificate, license or permit from the commission or file rates, tariffs, annual reports or provide proof of insurance with the commission:

(a) Transportation by motor carriers wholly within the corporate limits of a city or village in this state, or between contiguous cities or villages in this state or in this and another state, or between any city or village in this or another state and the suburban territory in this state within three miles of the corporate limits, or between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority, except that none of the exemptions specified in this subsection (a) shall apply to wrecker carriers;

(b) a private motor carrier who operates within a radius of 25 miles beyond the corporate limits of its city or village of domicile, or who operates between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority. *For the purpose of this subsection, "domicile" shall mean the principal place of business of a motor carrier;*

(c) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in a motor vehicle of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;

(d) (1) the transportation of children to and from school; (2) to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities; or (3) motor vehicles owned by nonprofit organizations meeting the qualification requirements of section 501(c) of the internal revenue code of 1986, and amendments thereto, when transporting property or materials belonging to the owner of the vehicle;

(e) a new vehicle dealer as defined by K.S.A. 8-2401, and amendments thereto, when transporting property to or from the place of business of such dealer;

(f) motor vehicles carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work, not having been sold or being transported for the purpose of sale;

(g) persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;

(h) the operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers;

(i) motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivision of this state, including vehicles used exclusively for handling U.S. mail, and the operation of motor vehicles used exclusively by organizations operating public transportation systems pursuant to 49 U.S.C. ~~sections~~ §§ 5307, 5310 and 5311;

(j) any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not-for-profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work;

(k) motor vehicles used to transport water for domestic purposes, as defined by ~~subsection (c) of~~ K.S.A. 82a-701(c), and amendments thereto, or livestock consumption;

(l) transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete mixtures, blacktop, dirt or fill material to a construction site, highway maintenance or construction project or other storage facility and the operation of ready-mix concrete trucks in transportation of ready-mix concrete;

(m) the operation of a vehicle used exclusively for the transportation of solid waste, as the same is defined by K.S.A. 65-3402, and amendments thereto, to any solid waste processing facility or solid waste disposal area, as the same is defined by K.S.A. 65-3402, and amendments thereto;

(n) the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;

(o) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state;

(p) transportation by taxi or bus companies operated exclusively

within any city or within 25 miles of the point of its domicile in a city. *For the purpose of this subsection, "domicile" shall mean the principal place of business of a motor carrier;*

(q) a vehicle being operated with a dealer license plate issued under K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-136, and amendments thereto, and vehicles being operated with a full-privilege license plate issued under K.S.A. 8-2425, and amendments thereto;

(r) the operation of vehicles used for transporting materials used in the servicing or repairing of the refractory linings of industrial boilers;

(s) transportation of newspapers published at least one time each week;

(t) transportation of animal dung to be used for fertilizer;

(u) the operation of ground water well drilling rigs;

(v) the transportation of cotton modules from the field to the gin; ~~and~~

(w) the transportation of custom harvested silage, including, but not limited to, corn, wheat and milo; and

~~(x) commercial motor vehicles operating in intrastate commerce which do not equal or exceed a gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW) or gross combination weight rating (GCWR) of 26,001 pounds, except commercial motor vehicles, regardless of weight, which are designed or used to transport 16 or more passengers, including the driver, or which are used in the transportation of hazardous materials and required to be placarded pursuant to 49 C.F.R. part 172, subpart F. The provisions of this subsection shall expire and have no effect on and after July 1, 2015~~ private motor carriers domiciled in Kansas operating commercial motor vehicles (CMV) with a gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), or gross combination weight rating (GCWR) of 10,001 to 26,000 pounds and registered pursuant to K.S.A. 8-126 et seq., and amendments thereto. This exception does not apply to commercial motor vehicles, regardless of weight, which are designed or used to transport 16 or more passengers, including the driver, or intrastate public (for hire) motor carriers of property or passengers, or any motor vehicles which are used in the transportation of hazardous materials and required to be placarded pursuant to 49 C.F.R. part 172, subpart F. *For the purpose of this subsection, "domicile" shall mean the principal place of business of a motor carrier or a permanent location in Kansas for a vehicle or vehicles annually registered in Kansas.*

Sec. 2. K.S.A. 2014 Supp. 66-1,129 is hereby amended to read as follows: 66-1,129. (a) The commission shall adopt rules and regulations necessary to carry out the provisions of this act. No public motor carrier of property, household goods or passengers or private motor carrier of property shall operate or allow the operation of any motor vehicle on any

public highway in this state except within the provisions of the rules and regulations adopted by the commission. Rules and regulations adopted by the commission shall include:

(1) Every vehicle unit shall be maintained in a safe and sanitary condition at all times.

(2) Every driver of a public or private motor carrier, except the driver of a farm vehicle, operating as a carrier of intrastate commerce within this state, shall be at least 18 years of age. All such drivers shall be competent to operate the motor vehicle under such driver's charge.

(3) Minimum age requirements for every driver of a motor carrier, operating as a carrier of interstate commerce, shall be consistent with federal motor carrier regulations.

(4) Hours of service for operators of all motor carriers to which this act applies shall be fixed by the commission.

(5) Accidents arising from or in connection with the operation of motor carriers shall be reported to the commission within the time, in the detail and in the manner as the commission requires.

(6) Every motor carrier shall have attached to each unit or vehicle distinctive marking adopted by the commission.

(7) Motor carrier transportation requirements that are consistent with continuation of the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous materials.

(b) No rules and regulations adopted by the commission pursuant to this section shall require the operator of any motor vehicle having a gross vehicle weight rating or gross combination weight rating of not more than 10,000 pounds to submit to a physical examination, unless required by federal laws or regulations.

(c) ~~Any rules and regulations of the commission, adopted pursuant to this section, The provisions of 49 C.F.R. parts 390-399 adopted by reference in the rules and regulations of the commission shall not apply to the following, while engaged in the carriage of intrastate commerce in this state:~~

(1) The owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment.

(2) The transportation of children to and from school, or to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities.

(3) ~~Commercial motor vehicles operating in intrastate commerce which do not equal or exceed a gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW) or gross combination weight rating (GCWR) of 26,001 pounds, except commercial motor vehicles, regardless of weight, which are designed or used to transport 16 or more passengers, including the driver, or which are used in the transportation of hazardous materials and required to be placarded pursuant to 49 C.F.R. part 172, subpart F. Notwithstanding the exemption granted under this paragraph, all commercial motor vehicles shall comply with 49 C.F.R. part 393, subpart I, as adopted by K.A.R. 82-4-3i, and 49 C.F.R. § 396.17, as adopted by K.A.R. 82-4-3j. Vehicles found to be in violation of 49 C.F.R. part 393, subpart I, as adopted by K.A.R. 82-4-3i, prior to October 1, 2014, shall be issued a warning citation. Vehicles found to be in violation of 49 C.F.R. § 396.17, as adopted by K.A.R. 82-4-3j, prior to July 1, 2015, shall be issued a warning citation. The provisions of this paragraph shall expire and have no effect on and after July 1, 2015.~~ *Private motor carriers domiciled in Kansas operating commercial motor vehicles (CMV) with a gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), or gross combination weight rating (GCWR) of 10,001 to 26,000 pounds and registered pursuant to K.S.A. 8-126 et seq., and amendments thereto. Such carriers shall comply with 49 C.F.R. part 393, subpart I (load securement) and subpart F (coupling devices), as adopted by K.A.R. 82-4-3i; and 49 C.F.R. part 396.17 (annual inspection), as adopted by K.A.R. 82-4-3j. Any deficiencies related to the above regulations discovered roadside or any defects identified at the time of the annual inspection shall be corrected prior to returning the commercial motor vehicle to operational status. This exception does not apply to commercial motor vehicles, regardless of weight, which are designed or used to transport 16 or more passengers, including the driver, or intrastate public (for hire) motor carriers of property or passengers, or any motor vehicles which are used in the transportation of hazardous materials and required to be placarded pursuant to 49 C.F.R. part 172, subpart F. For the purpose of this subsection “domicile” shall mean the principal place of business of a motor carrier or a permanent location in Kansas for a vehicle or vehicles annually registered in Kansas.*

(4) Persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles.

(5) The operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers.

(6) Motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivisions of this state.

(7) Any motor vehicle with a normal seating capacity of not more than 15 people, including the driver, while used for vanpooling or otherwise not-for-profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than 15 people, including the driver, for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work.

(8) The operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state, unless the implement of husbandry is transported on a commercial motor vehicle.

Sec. 3. K.S.A. 2014 Supp. 66-1,109 and 66-1,129 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 1, 2015.

Published in the *Kansas Register* April 9, 2015.

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## CHAPTER 10

### SENATE BILL No. 47

AN ACT concerning insurance; relating to life insurance companies; reserve valuation method; principle-based valuation; standard nonforfeiture law; amending K.S.A. 2014 Supp. 40-409 and 40-428 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 40-409 is hereby amended to read as follows: 40-409. (a) *For the purposes of this section, the following definitions apply on or after the operative date of the valuation manual:*

(1) *“Accident and health insurance” means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness or medical conditions and as may be specified in the valuation manual;*

(2) *“appointed actuary” means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection (b-1);*

(3) *“company” means an entity which: (A) Has written, issued or reinsured life insurance contracts, accident and health insurance contracts*

or deposit-type contracts in this state and has at least one such policy in force or on claim; or (B) has written, issued or reinsured life insurance contracts, accident and health insurance contracts or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance or deposit-type contracts in this state;

(4) “deposit-type contract” means contracts that do not incorporate mortality or morbidity risks and as may be specified in the valuation manual;

(5) “life insurance” means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual;

(6) “NAIC” means the national association of insurance commissioners;

(7) “policyholder behavior” means any action a policyholder, contract holder or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this act including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization or benefit elections prescribed by the policy or contract, but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract;

(8) “principle-based valuation” means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with subsection (h), as specified in the valuation manual;

(9) “qualified actuary” means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American academy of actuaries qualification standards for actuaries who sign such statements and who meet the requirements specified in the valuation manual;

(10) “tail risk” means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude; and

(11) “valuation manual” means the manual of valuation instructions adopted by the NAIC as specified in this section or as subsequently amended.

(a-1) (1) Every life insurance company transacting business in this state shall annually file, on or before March 1 of each year, with the commissioner of insurance a certified valuation of its policies in force as of December 31 of the preceding year; ~~and~~

(2) Policies and contracts issued prior to the operative date of the valuation manual.

(A) It shall be the duty of the commissioner of insurance to annually

make or cause to be made net valuations of all the outstanding policies and additions thereto of every life insurance company transacting business in this state *prior to the operative date of the valuation manual*, except that in the case of an alien company such valuation shall be limited to its insurance transactions in the United States. In making the valuations of life insurance companies organized under the laws of this state, the valuation shall include unpaid dividends, and all other policy obligations. Whenever the laws of any other state of the United States shall authorize the valuation of life insurance policies by some designated state officer according to the same standard as herein provided, or some other standard which will require a reserve not less than the standard herein provided, the valuation made according to the standard by such officer of the policies and other obligations of any life insurance company not organized under the laws of this state, and certified by such officer, may be received as true and correct, and no further valuation of the same shall be required of such company by the commissioner of insurance. It shall be the duty of the commissioner of insurance, whenever requested so to do by any life insurance company organized under the laws of this state, to make annual valuations of all the outstanding policies and additions thereto of every such company and deliver to such company certificates of such valuation, specifying the amount of the company's reserve on policies thus valued. And for the performance of the duties prescribed by this section the commissioner of insurance shall be authorized to employ an actuary, whose compensation shall be paid by the company whose policies, additions, unpaid dividends or other outstanding policy obligations are valued, upon a certificate by the commissioner of insurance showing the compensation due therefor.

(B) *The provisions set forth in subsections (d) and (e) shall apply to all policies and contracts, as appropriate, subject to this section issued on or after the operative date of K.S.A. 40-428, and amendments thereto, and prior to the operative date of the valuation manual, and the provisions set forth in subsections (g) and (h) shall not apply to any such policies and contracts.*

(C) *The minimum standard for the valuation of policies and contracts issued prior to the operative date of K.S.A. 40-428, and amendments thereto, shall be that provided in subsection (c).*

(3) *Policies and contracts issued on or after the operative date of the valuation manual.*

(A) *The commissioner shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance*

*supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section.*

*(B) The provisions set forth in subsections (g) and (h) shall apply to all policies and contracts issued on or after the operative date of the valuation manual.*

(4) Any such company which at any time shall have adopted any standards of valuation producing greater aggregate reserves than those calculated according to the minimum standards hereinafter provided may, with the approval of the commissioner of insurance, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(b) This subsection shall become operative for the year ending December 31, 1995, and each subsequent calendar year, *prior to the operative date of the valuation manual.*

(1) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The commissioner shall adopt an administrative regulation defining the specific application, scope and content of this opinion.

(2) Except as otherwise provided by law or rules and regulations of the commissioner, every life insurance company shall also annually include in the opinion required by ~~subsection~~ *paragraph* (1), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, making adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(3) The commissioner may provide for a transition period for establishing any higher reserves which the qualified actuary deems necessary in order to render the opinion required by this section.

(4) Each opinion required by ~~subsection~~ *paragraph* (2) shall comply with the following provisions:

(A) A memorandum, in form and substance acceptable to or prescribed by the commissioner shall be prepared to support each actuarial opinion; *and*

(B) if the insurance company fails to provide a supporting memorandum within a period specified or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the prescribed standards or is otherwise unacceptable to the com-

missioner, the commissioner is authorized to employ an actuary whose compensation and expenses shall be paid by the company whose policies, additions, unpaid dividends or other outstanding policy or contractual obligations are valued upon a certificate by the commissioner showing the compensation and expenses due therefor.

(5) Every opinion of the actuary shall comply with the following provisions:

(A) The opinion shall be submitted with the annual statement required by K.S.A. 40-225, and amendments thereto, reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995;

(B) the opinion shall apply to all business in force including individual and group health insurance plans;

(C) the opinion shall be based on standards adopted from time to time by the actuarial standards board of the American academy of actuaries and on such additional standards as the commissioner prescribes;

(D) in the case of an opinion required to be submitted by an insurance company not domiciled in this state, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state;

(E) for the purposes of this ~~section~~ subsection, "qualified actuary" means a member in good standing of the American academy of actuaries;

(F) except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision or conduct with respect to the actuary's opinion required by this act; and

(G) any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the opinion, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this ~~section~~ subsection or by rules and regulations adopted pursuant to this ~~section~~ subsection. Notwithstanding the provisions of this ~~subpart~~ ~~(G)~~ paragraph, the memorandum or other material may be released by the commissioner: (i) With the written consent of the company; or (ii) to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department

or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

*(b-1) This subsection shall become operative after the operative date of the valuation manual.*

*(1) Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and subject to regulation by the commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The valuation manual will prescribe the specifics of this opinion including any items deemed to be necessary to its scope.*

*(2) Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and subject to regulation by the commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by paragraph (1), an opinion of the same appointed actuary as to whether the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.*

*(3) Each opinion required by subsection (b-1) shall be governed by the following provisions:*

*(A) A memorandum, in form and substance as specified in the valuation manual, and acceptable to the commissioner, shall be prepared to support each actuarial opinion; and*

*(B) if the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.*

*(4) Every opinion subject to subsection (b-1) shall be governed by the following provisions:*

*(A) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the commissioner;*

*(B) the opinion shall be submitted with the annual statement reflect-*

*ing the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual;*

*(C) the opinion shall apply to all policies and contracts subject to subsection (b-1)(2), plus other actuarial liabilities as may be specified in the valuation manual;*

*(D) the opinion shall be based on standards adopted from time to time by the actuarial standards board or its successor, and on such additional standards as may be prescribed in the valuation manual;*

*(E) in the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by such company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state;*

*(F) except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision or conduct with respect to the appointed actuary's opinion; and*

*(G) disciplinary action by the commissioner against the company or the appointed actuary shall be defined in rules and regulations by the commissioner.*

(c) This subsection shall apply to only those policies and contracts issued prior to the operative date of K.S.A. 40-428, and amendments thereto, ~~(the standard nonforfeiture law), except as provided in subsection (d) of this section.~~

For the purpose of such valuations and for making special examinations of the condition of life insurance companies, as provided by the laws of this state, and for valuing all outstanding policies of every life insurance company, the method and basis of valuation shall be the same as prescribed by the insurance code of this state in the valuation of such contracts before June 1, 1927. The legal minimum standard for the valuation of life insurance contracts issued on or after June 1, 1927, shall be the one-year preliminary-term method of valuation, except as hereinafter modified, on the basis of the American experience table of mortality with interest at 4% per annum. If the premium charged for term insurance under limited-payment life preliminary-term policy providing for the payment of all premiums thereon in less than 20 years from the date of policy, or under an endowment preliminary-term policy, exceeds that charged for life insurance under twenty-payment life preliminary-term policy of the same company, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty-payment life preliminary-term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium-payment period, equal to the difference between the value at the end of such period of such a twenty-payment life preliminary-term

policy and the full net level premium reserve at such time of such a limited-payment life or endowment policy. The premium-payment period is the period during which premiums are concurrently payable, under such twenty-payment life preliminary-term policy and such limited-payment life or endowment policy. Policies issued on the preliminary-term method shall contain a clause specifying that the reserve thereof shall be computed in accordance with the modified preliminary-term method of valuation provided therein. Except as otherwise provided for group annuity and pure endowment contracts in paragraphs (1-a) and (1-b) of subsection (d) ~~of this section~~, the legal minimum standard for the valuation of annuities shall be McClintock's "table of mortality among annuitants," with interest at 4% per annum, but annuities deferred 10 or more years and written in connection with life insurance shall be valued on the same basis as that used in computing the consideration or premiums therefor, or upon any higher standard at the option of the company. The commissioner of insurance may, in the commissioner's discretion, vary the above standard of interest and mortality in cases of companies organized under the laws of a foreign country and in particular cases of invalid lives or other extra hazards.

Reserves for all such policies and contracts may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(d) *Standard valuation law.* This subsection shall apply to only those policies and contracts issued on or after the operative date of K.S.A. 40-428, and amendments thereto, ~~(the standard nonforfeiture law)~~, except as otherwise provided in paragraphs (1-a) and (1-b) ~~of this subsection~~ for group annuity and pure endowment contracts issued prior to such operative date, and except as provided in subsection (e) ~~of this section~~.

(1) Except as otherwise provided in paragraphs (1-a) and (1-b) ~~of this subsection~~, the minimum standard for the valuation of all such policies and contracts shall be the commissioners' reserve valuation methods defined in paragraphs (2), (2-a) and (5) ~~of this subsection~~, 3½% interest or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4% interest for such policies issued prior to July 1, 1978, 5½% interest for single premium life insurance policies and 4½% interest for all other such policies issued on or after July 1, 1978, and the following specified tables:

~~(i)~~(A) For ~~all~~ ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the commissioners' 1941 standard ordinary mortality table for such policies issued prior to the operative date of K.S.A. 40-428(d-1), and amendments thereto, the commissioners' 1958 standard ordinary mortality table and the commissioners' 1958 extended term insurance table, as applicable, for such policies issued on or after the operative date of

K.S.A. 40-428(d-1), and amendments thereto, and prior to the operative date of K.S.A. 40-428(d-3), and amendments thereto, provided that for any category of such policies issued on female risks, the modified net premiums and present values, referred to in subsection (d)(2) ~~of this section~~, may be calculated, according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date of K.S.A. 40-428(d-3), and amendments thereto: (i) The commissioners' 1980 standard ordinary mortality table; or (ii) at the election of the company for any one or more specified plans of life insurance, the commissioners' 1980 standard ordinary mortality table with ten-year select mortality factors; or (iii) any ordinary mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by ~~regulation~~ *rules and regulations* promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

~~(ii)~~(B) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies—the 1941 standard industrial mortality table for such policies issued prior to the operative date of K.S.A. 40-428(d-2), and amendments thereto, and for such policies issued on or after such operative date the commissioners' 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by ~~regulation~~ *rules and regulations* promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

~~(iii)~~(C) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, and excluding annuities involving life contingencies provided or available under optional modes of settlement in life insurance policies or annuity contracts—the 1937 standard annuity mortality table, or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

~~(iv)~~(D) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the group annuity mortality table for 1951, any modification of such table approved by the commissioner, or at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

~~(v)~~(E) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1961, either the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit, any tables of disablement rates and termination rates, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that are approved

by ~~regulation~~ *rules and regulations* promulgated by the commissioner for use in determining the minimum standard of valuation for such policies, or, at the option of the company, the class (3) disability table (1926); and for policies issued prior to January 1, 1961, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserve for life insurance policies.

~~(vi)~~(F) For accidental death benefits in or supplementary to policies— for policies issued on or after January 1, 1961, either the 1959 accidental death benefits table, any accidental death benefits table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by ~~regulation~~ *rules and regulations* promulgated by the commissioner for use in determining the minimum standard of valuation for such policies, or, at the option of the company, the inter-company double indemnity mortality table; and for policies issued prior to January 1, 1961, the inter-company double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

~~(vii)~~(G) For group life insurance, life insurance issued on the sub-standard basis, annuities involving life contingencies provided or available under optional modes of settlement in life insurance policies or annuity contracts and other special benefits—such tables as may be approved by the commissioner of insurance.

~~(viii)~~(H) For all credit life insurance having initial terms of 10 years or less, excluding any disability and accidental death benefits in such policies, the 1980 commissioners' extended term mortality table or any later version as established in rules and regulations adopted by the commissioner of insurance.

(1-a) Except as provided in paragraph (1-b), the minimum standard ~~for the~~ *of* valuation ~~of all~~ *for* individual annuity and pure endowment contracts issued on or after the operative date of this paragraph (1-a), as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioners' reserve valuation methods defined in paragraphs (2) and (2-a) and the following tables and interest rates:

~~(i)~~(A) For individual annuity and pure endowment contracts issued prior to July 1, 1978, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner of insurance, and 6% interest for single premium immediate annuity contracts, and 4% interest for all other individual annuity and pure endowment contracts.

~~(ii)~~(B) For individual single premium immediate annuity contracts issued on or after July 1, 1978, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table, or any individual annuity mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved

by ~~regulation~~ *rules and regulations* promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and 7½% interest.

~~(iii)~~(C) For individual annuity and pure endowment contracts issued on or after July 1, 1978, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table, or any individual annuity mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by ~~regulation~~ *rules and regulations* promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and 5½% interest for single premium deferred annuity and pure endowment contracts and 4½% interest for all other such individual annuity and pure endowment contracts.

~~(iv)~~(D) For all annuities and pure endowments purchased prior to July 1, 1978, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 group annuity mortality table, or any modification of this table approved by the commissioner of insurance, and 6% interest.

~~(v)~~(E) For all annuities and pure endowments purchased on or after July 1, 1978, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 group annuity mortality table, or any group annuity mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by ~~regulation~~ *rules and regulations* promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the commissioner, and 7½% interest.

After July 1, 1973, any company may file with the commissioner of insurance a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1979, which shall be the operative date of this paragraph for such company. A company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this paragraph for such company shall be January 1, 1979.

(1-b) (A) Applicability of this paragraph:

(1) The interest rates used in determining the minimum standard for the valuation of:

(a) ~~All~~ Life insurance policies issued in a particular calendar year, on or after the operative date of K.S.A. 40-428(d-3), and amendments thereto;

(b) ~~all~~ individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1983;

(c) ~~all~~ annuities and pure endowments purchased in a particular calendar year on or after January 1, 1983, under group annuity and pure endowment contracts; and

(d) the net increase, if any, in a particular calendar year after January 1, 1983, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in this paragraph (1-b).

(B) Calendar year statutory valuation interest rates:

(1) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer  $\frac{1}{4}\%$ :

(a) For life insurance,

$$I = .03 + W (R^1 - .03) + W/2 (R^2 - .09);$$

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W (R - .03)$$

where  $R^1$  is the lesser of R and .09,

$R^2$  is the greater of R and .09,

R is the reference interest rate defined in this paragraph and W is the weighting factor defined in this paragraph.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (b) above, the formula for life insurance stated in (a) above shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in (b) above shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less.

(d) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (b) above shall apply.

(e) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in (b) above shall apply.

(2) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than  $\frac{1}{2}\%$ , the calendar year statutory valuation interest rate for such life

insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980~~),~~ using the reference interest rate defined for 1979~~),~~ and shall be determined for each subsequent calendar year regardless of when K.S.A. 40-428(d-3), and amendments thereto, becomes operative.

(C) Weighting factors:

(1) The weighting factors referred to in the formulas stated above are given in the following tables:

(a) Weighting factors for life insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less .....	.50
More than 10, but not more than 20 .....	.45
More than 20 .....	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values, or both, which are guaranteed in the original policy;

(b) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

(c) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (b) above, shall be as specified in tables (i), (ii) and (iii) below, according to the rules and definitions in (iv), (v) and (vi) below:

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less .....	.80	.60	.50
More than five, but not more than 10 .....	.75	.60	.50
More than 10, but not more than 20 .....	.65	.50	.45
More than 20 .....	.45	.35	.35

(ii)

	Plan Type		
	A	B	C
For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) above increased by .....	.15	.25	.05

(iii)

	Plan Type		
	A	B	C
For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by .....	.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan type A: At any time policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) without such adjustment but in installments over five years or more; or (3) as an immediate life annuity; or (4) no withdrawal permitted.

Plan type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) without such adjustment but in installments over five years or more; or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either: (1) Without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this paragraph (1-b), an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(D) Reference interest rate:

(1) The reference interest rate referred to in paragraph ~~(B)~~ of this paragraph ~~(1-b)~~(B) shall be defined as follows:

(a) For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (b) above, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(d) For other annuities with cash settlement options and guaranteed

interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (b) above, with guaranteed duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(e) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(f) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in (b) above, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(E) Alternative method for determining reference interest rates:

(1) In the event that Moody's corporate bond yield average—monthly average corporates is no longer published by Moody's investors service, inc., or in the event that the ~~national association of insurance commissioners~~ NAIC determines that Moody's corporate bond yield average—monthly average corporates as published by Moody's investors service, inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the ~~national association of insurance commissioners~~ NAIC and approved by regulation promulgated by the commissioner, may be substituted.

(2) *Commissioners' reserve valuation method.* Except as otherwise provided in paragraphs (2-a) and (5) ~~of this subsection~~, reserves according to the commissioners' reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor.

The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for ~~such~~ benefits *such* that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:

(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one

per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due. Such net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(B) A net one-year term premium for such benefits provided for in the first policy year.

Except for any life insurance policy issued on or after January 1, 1985, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners' reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in paragraph (5), be the greater of the reserve as of such policy anniversary calculated as described in this paragraph and the reserve as of such policy anniversary calculated as described in this paragraph, but with: (i) The value defined in subparagraph (A) of this paragraph being reduced by 15% of the amount of such excess first-year premium; (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date; (iii) the policy being assumed to mature on such date as an endowment; and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in paragraphs (1) and (1-b) shall be used.

Reserves according to the commissioners' reserve valuation method for: (i) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; (ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer~~—~~, including a partnership or sole proprietorship~~),~~ or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, as now or hereafter amended; (iii) disability and accidental death benefits in all policies and contracts; and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this paragraph (2).

Reserves according to the commissioners' reserve valuation method for universal life contracts issued after December 31, 2006, providing for

death benefits that are guaranteed to remain in effect if specified conditions, as defined in the universal life insurance contract are met by the contract owner, shall calculate the value of the guarantee by a method consistent with the principles of this paragraph (2). The use of anticipated lapse rates in such calculations shall not exceed 2% per annum.

(2-a) This section shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, as now or hereafter amended.

Reserves according to the commissioners' annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(3) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in paragraphs (2), (2-a), (5) and (6) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(3-a) In no event shall the aggregate reserves for all policies, contracts and benefits be less than the aggregate reserves determined by the ~~qualified~~ *appointed* actuary rendering the opinion required by subsection (b) and (b-1).

(4) Reserves for any category of policies, contracts or benefits as established by the commissioner of insurance may be calculated at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be ~~higher~~ *greater* than the corresponding rate or rates

of interest used in calculating any nonforfeiture benefits provided ~~for~~ ~~therein~~ *in the policies or contracts.*

(5) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium.

The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in paragraphs (1) and (1-b).

Except for any life insurance policy issued on or after January 1, 1988, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this paragraph (5) shall be applied as if the method actually used in calculating the reserve for such policy were the method described in paragraph (2), ignoring the third paragraph of paragraph (2). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with paragraph (2), including the third paragraph of paragraph (2), and the minimum reserve calculated in accordance with this paragraph (5).

(6) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in paragraphs (2), (2-a) and (5), the reserves which are held under any such plan must:

~~(a)~~(A) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and

~~(b)~~(B) be computed by a method which is consistent with the principles of this standard valuation law, as determined by regulations promulgated by the commissioner.

(e) Any company organized under the laws of this state, which shall desire to do business in any other states wherein it is not permitted to issue or deliver policies valued as provided in subsection (d) ~~of this sec-~~

tion, may value its policies issued and delivered in such other states as provided in subsection (c) ~~of this section~~.

(f) *For accident and sickness contracts issued prior to the operative date of the valuation manual, the commissioner shall adopt rules and regulations establishing the minimum standards applicable to the standard of valuation of accident and sickness insurance and may adopt other rules and regulations necessary to administer the provisions of this act section. For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (a-1)(3).*

(g) *Valuation manual for policies issued on or after the operative date of the valuation manual.*

(1) *For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (a-1)(3), except as provided under paragraphs (5) or (7).*

(2) *The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:*

(A) *The valuation manual has been adopted by the NAIC by an affirmative vote of at least 42 members, or  $\frac{3}{4}$  of the members voting, whichever is greater;*

(B) *the standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75% of the direct premiums written as reported in the following annual statements submitted for 2008: (i) Life, accident and health annual statements; (ii) health annual statements; or (iii) fraternal annual statements; and*

(C) *the standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions: (i) The 50 states of the United States; (ii) American Samoa; (iii) the American Virgin Islands; (iv) the District of Columbia; (v) Guam; and (vi) Puerto Rico.*

(3) *Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when the change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:*

(A) *At least  $\frac{3}{4}$  of the members of the NAIC voting, but not less than a majority of the total membership; and*

(B) *members of the NAIC representing jurisdictions totaling greater than 75% of the direct premiums written as reported in the following annual statements most recently available prior to the vote in subparagraph (A): (i) Life, accident and health insurance statements; (ii) health*

*annual statements; or (iii) fraternal annual statements, pursuant to K.S.A. 40-225, and amendments thereto.*

*(4) The valuation manual must specify all of the following:*

*(A) Minimum valuation standards for and definitions of the policies or contracts subject to subsection (a-1)(3). Such minimum valuation standards shall be:*

*(i) The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection (a-1)(3);*

*(ii) the commissioner's annuity reserve valuation method for annuity contracts subject to subsection (a-1)(3); and*

*(iii) minimum reserves for all other policies or contracts subject to subsection (a-1)(3);*

*(B) which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subsection (h)(1) and the minimum valuation standards consistent with those requirements;*

*(C) for policies and contracts subject to a principle-based valuation under subsection (h):*

*(i) Requirements for the format of reports to the commissioner under subsection (h)(2)(C) and which shall include information necessary to determine if the valuation is appropriate and in compliance with this section;*

*(ii) assumptions shall be prescribed for risks over which the company does not have significant control or influence; and*

*(iii) procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures;*

*(D) for policies not subject to a principle-based valuation under subsection (h), the minimum valuation standard shall either:*

*(i) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or*

*(ii) develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.*

*(E) other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls; and*

*(F) the data and form of the data required under subsection (i), with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.*

*(5) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of*

*the commissioner, in compliance with this section, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the commissioner by rules and regulations.*

*(6) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The commissioner may rely upon the opinion, regarding provisions contained within this section, of a qualified actuary engaged by the commissioner of another state, district or territory of the United States. As used in this paragraph, the term "engage" includes employment and contracting.*

*(7) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with requirements of the valuation manual or this section; and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted pursuant to K.S.A. 77-501 et seq., and amendments thereto.*

*(h) Requirements of a principle-based valuation.*

*(1) A company must establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:*

*(A) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, a level of conservatism that reflects conditions appropriately adverse to quantify the tail risk;*

*(B) incorporate assumptions, risk analysis methods and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;*

*(C) incorporate assumptions that are derived in one of the following manners:*

*(i) The assumption is prescribed in the valuation manual; and*

*(ii) for assumptions that are not prescribed, the assumptions shall be established utilizing the company's available experience, to the extent it is relevant and statistically credible; or to the extent that company data is not available, relevant or statistically credible, be established utilizing other relevant, statistically credible experience; and*

*(D) provide margins for uncertainty, including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.*

*(2) A company using a principle-based valuation for one or more*

*policies or contracts subject to this subsection as specified in the valuation manual shall:*

*(A) Establish procedures for corporate governance and oversight of the actual valuation function consistent with those described in the valuation manual;*

*(B) provide to the commissioner and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year; and*

*(C) develop, and file with the commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.*

*(3) A principle-based valuation may include a prescribed formulaic reserve component.*

*(i) Experience reporting for policies in force on or after the operative date of the valuation manual.*

*A company shall submit mortality, morbidity, policyholder behavior or expense experience and other data as prescribed in the valuation manual.*

*(j) Confidentiality.*

*(1) For purposes of this subsection, "confidential information" means:*

*(A) A memorandum in support of an opinion submitted under subsection (b) or (b-1) and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such memorandum;*

*(B) all documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in the course of an examination made under subsection (g)(6); except, that if an examination report or other material prepared in connection with an examination made under K.S.A. 40-222, and amendments thereto, is not held as private and confidential information under K.S.A. 40-222, and amendments thereto, an examination report or other material prepared in connection with an examination made under subsection (g)(6) shall not be "confidential information" to the same extent as if such examination report or other material had been prepared under K.S.A. 40-222, and amendments thereto;*

*(C) any reports, documents, materials and other information developed by a company in support of, or in connection with, an annual certification by the company under subsection (h)(2)(B) evaluating the effectiveness of the company's internal controls with respect to a*

*principle-based valuation and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such reports, documents, materials or other information;*

*(D) any principle-based valuation report developed under subsection (h)(2)(C) and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such report; and*

*(E) any documents, materials, data and other information submitted by a company under subsection (i), collectively, “experience data,” and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that include any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner, together with any “experience data,” the “experience materials,” and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such experience materials.*

*(2) Privilege for, and confidentiality of, confidential information.*

*(A) Except as provided in this subsection, a company’s confidential information is confidential by law and privileged, and shall not be subject to K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action; except, that the commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner’s official duties.*

*(B) Neither the commissioner nor any person who received confidential information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential information.*

*(C) In order to assist in the performance of the commissioner’s duties, the commissioner may share confidential information: (i) With other state, federal and international regulatory agencies and with the NAIC and its affiliates and subsidiaries; and (ii) in the case of confidential information specified in subsections (j)(1)(A) and (j)(1)(D) only, with the actuarial board for counseling and discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal and international law enforcement officials; in the case of (i) and (ii), provided that such recipient agrees, and has the legal authority to agree, to maintain the*

*confidentiality and privileged status of such documents, materials, data and other information in the same manner and to the same extent as required for the commissioner.*

*(D) The commissioner may receive documents, materials, data and other information, including otherwise confidential and privileged documents, materials, data or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the actuarial board for counseling and discipline or its successor and shall maintain as confidential or privileged any document, material, data or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information.*

*(E) The commissioner may enter into agreements governing sharing and use of information consistent with this subsection (j)(2).*

*(F) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the commissioner under this subsection or as a result of sharing as authorized in subsection (j)(2)(C).*

*(G) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection (j)(2) shall be available and enforced in any proceeding in, and in any court of, this state.*

*(H) In this subsection, “regulatory agency,” “law enforcement agency” and the “NAIC” include, but are not limited to, their employees, agents, consultants and contractors.*

*(3) Notwithstanding subsection (j)(2), any confidential information specified in subsections (j)(1)(A) and (j)(1)(D):*

*(A) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsections (b) or (b-1) or principle-based valuation report developed under subsection (h)(2)(C) of this section by reason of an action required by this section or by rules and regulations promulgated hereunder;*

*(B) may otherwise be released by the commissioner with the written consent of the company; and*

*(C) once any portion of a memorandum in support of an opinion submitted under subsections (b) or (b-1) or a principle-based valuation report developed under subsection (h)(2)(C) is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.*

*(k) Single state exemption.*

*(l) The commissioner may exempt specific product forms or product*

lines of a domestic company that is licensed and doing business only in Kansas from the requirements of subsection (g) if:

(A) The commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and

(B) the company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and promulgated by rules and regulations.

(2) For any company granted an exemption under this subsection, subsections (b), (b-1), (d) and (f) shall be applicable. With respect to any company applying this exemption, any reference to subsection (g) found in subsections (b), (b-1), (d) and (f) shall not be applicable.

Sec. 2. K.S.A. 2014 Supp. 40-428 is hereby amended to read as follows: 40-428. (a) *The term "operative date of the valuation manual" means the January 1 of the first calendar year that the valuation manual as defined in K.S.A. 40-409, and amendments thereto, is effective.*

(1) In the case of policies issued on or after the operative date of this section, as defined in subsection (d-1), (d-2), (d-3) or (i), no policy of life insurance, except as stated in subsection (h) shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner of insurance are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with subsection (g) ~~of this section.~~

~~(i)~~(A) In the event of default in any premium payment, the company will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be hereinafter specified.

In lieu of such stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

~~(ii)~~(B) Upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

~~(iii)~~(C) A specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such

election elects another available option not later than 60 days after the due date of the premium in default.

~~(iv)~~(D) If the policy shall have become paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

~~(v)~~(E) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

~~(vi)~~(F) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to any statute of the state in which the policy is delivered; and an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and, a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy with the consent of the insurance commissioner.

The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy. During such period of deferment, any interest

or dividends that would accrue in the absence of a surrender of the policy shall continue to accrue until such surrender value is paid.

(b) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (a), shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of: ~~(i)~~ (1) The then present value of the adjusted premiums as defined in subsections (d), (d-1), (d-2) and (d-3), corresponding to premiums which would have fallen due on and after such anniversary; and ~~(ii)~~ (2) the amount of any indebtedness to the company on the policy.

For any policy issued on or after the operative date of subsection (d-3) as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

For any family policy issued on or after the operative date of subsection (d-3) as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age 71, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

Any cash surrender value available within 30 days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection (a), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

(c) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been

required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(d) This subsection (d) shall not apply to policies issued on and after the operative date of subsection (d-3), as defined therein. Except as provided in the third paragraph of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts stated in the policy as extra premiums to cover impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of: ~~(i)~~ (1) The then present value of the future guaranteed benefits provided for by the policy; ~~(ii)~~ (2) two percent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; ~~(iii)~~ (3) forty percent of the adjusted premium for the first policy year; ~~(iv)~~ (4) twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole life issued at the same age for the same amount of insurance, whichever is less. In applying the percentages specified in ~~(iii)~~ (3) and ~~(iv)~~ (4) above, no adjusted premium shall be deemed to exceed 4% of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy. In the case of a policy issued at an age less than 10 years the equivalent uniform amount of insurance may be based upon the amount of insurance after age 10.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to: (a) The adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in the first two paragraphs of this subsection except that, for the purposes of ~~(ii)~~ (2), ~~(iii)~~ (3) and ~~(iv)~~ (4) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted pre-

miums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Except as otherwise provided in subsections (d-1) and (d-2), all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners' 1941 standard ordinary mortality table. For any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated, according to an age not more than three years younger than the actual age of the insured. Such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding 3½% per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130% of the rates of mortality according to such applicable table. If the rate of mortality used exceeds 100% the rate shall be stated in the policy. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner of insurance.

(d-1) This subsection (d-1) shall not apply to ordinary policies issued on or after the operative date of subsection (d-3), as defined therein. In the case of ordinary policies issued on or after the operative date of this subsection (d-1) as defined herein, all adjusted premiums, as defined in subsection (d), and present values referred to in this section shall be calculated on the basis of the commissioners' 1958 standard ordinary mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Such rate of interest shall not exceed 3½% per annum, except that a rate of interest not exceeding 4% per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1978, and a rate of interest not exceeding 5½% per annum may be used for policies issued on or after July 1, 1978, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6½% per annum may be used. For any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1958 extended term insurance table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present

values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After the effective date of this subsection (d-1), any company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date. After the filing of such notice, then upon such specified date~~—~~, which shall be the operative date of this subsection for such company~~—~~, this subsection shall become operative with respect to the ordinary policies thereafter issued by such company. Any company, having filed such notice of election to comply with this subsection, and desiring to withdraw from such election as to future policies may file with the commissioner of insurance a written notice of such withdrawal after a specified date, and of its intention to value all its future policies in accordance with the provisions of law applicable to the basis used prior to such election and to provide nonforfeiture benefits and cash surrender values in future policies as required for the basis used prior to such election.

(d-2) This subsection (d-2) shall not apply to industrial policies issued on or after the operative date of subsection (d-3), as defined therein. In the case of industrial policies issued on or after the operative date of this subsection (d-2) as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners' 1961 standard industrial mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Such rate of interest shall not exceed 3½% per annum, except that a rate of interest not exceeding 4% per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1978, and a rate of interest not exceeding 5½% per annum may be used for policies issued on or after July 1, 1978, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6½% per annum may be used. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1961 industrial extended term insurance table. For insurance issued on a substandard basis, the calculations of such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After the effective date of this subsection (d-2), any company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date. After the filing of such notice, then upon such specified date~~—~~, which shall be the operative date of this subsection for such company~~—~~, this subsection shall become operative with respect to the industrial policies thereafter issued by such company. Any company having filed such notice of election to comply with this subsection, and desiring to withdraw from such election as to

future policies may file with the commissioner of insurance a written notice of such withdrawal after a specified date, and of its intention to value all its future policies in accordance with provisions of law applicable to the basis used prior to such elections and to provide nonforfeiture benefits and cash surrender values in future policies as required for the basis used prior to such election.

(d-3) (1) This subsection shall apply to all policies issued on or after the operative date of this subsection (d-3), as defined herein. Except as provided in the seventh paragraph of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of: ~~(i)~~ (A) The then present value of the future guaranteed benefits provided for by the policy; ~~(ii)~~ (B) one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and ~~(iii)~~ (C) one hundred twenty-five percent of the nonforfeiture net level premium as hereinafter defined. In applying the percentage specified in ~~(iii)~~ (C) above, no nonforfeiture net level premium shall be deemed to exceed 4% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

(2) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(3) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(4) Except as otherwise provided in the seventh paragraph of this subsection, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of: (A) The sum of: (i) The then present value of the then future guaranteed benefits provided for by the policy; and (ii) the additional expense allowance, if any, over (B) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(5) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of: ~~(i)~~ (A) One percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and ~~(ii)~~ (B) one hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

(6) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (A) by (B) where (A) equals the sum of: (i) The nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and (ii) the present value of the increase in future guaranteed benefits provided for by the policy; and

(B) equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(7) Notwithstanding any other provisions of this subsection to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(8) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of: ~~(i)~~ (A) The commissioners' 1980 standard ordinary mortality table; or

~~(ii)~~ (B) at the election of the company for any one or more specified plans of life insurance, the commissioners' 1980 standard ordinary mortality table with ten-year select mortality factors; shall for all policies of industrial insurance be calculated on the basis of the commissioners' 1961 standard industrial mortality table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year. Except:

~~(A)~~(i) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year.

~~(B)~~(ii) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (a), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

~~(C)~~(iii) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

~~(D)~~(iv) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners' 1961 industrial extended term insurance table for policies of industrial insurance.

~~(E)~~(v) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

~~(F)~~(vi) *For policies issued prior to the operative date of the valuation manual*, any ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by ~~regulation rules and regulations~~ promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners' 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners' 1980 extended term insurance table.

*For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners' standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners' 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners' 1980 extended term insurance table. If the commissioner*

*approves by rules and regulations any commissioners' standard ordinary mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.*

(G) *For policies issued prior to the operative date of the valuation manual, any industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by ~~regulation~~ rules and regulations promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners' 1961 standard industrial mortality table or the commissioners' 1961 industrial extended term insurance table.*

*For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners' standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners' 1961 standard industrial mortality table or the commissioners' 1961 industrial extended term insurance table. If the commissioner approves by rules and regulations any commissioners' standard industrial mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.*

(9) *The nonforfeiture interest rate is defined below:*

(A) *For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125% of the calendar year statutory valuation interest rate for such policy as defined in the standard valuation law, rounded to the nearer  $\frac{1}{4}\%$ , except that, the nonforfeiture interest rate shall not be less than 4%.*

(B) *For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.*

(10) *Notwithstanding any other provision of this code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.*

(11) *After the effective date of ~~this~~ subsection (d-3), any company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for such*

company. If a company makes no such election, the operative date of this subsection for such company shall be January 1, 1989.

(e) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsections (a), (b), (c), (d), (d-1), (d-2) or (d-3) herein, then:

(1) The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsections (a), (b), (c), (d), (d-1), (d-2) or (d-3) herein;

(2) the commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(3) the cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this standard nonforfeiture law, as determined by regulations promulgated by the commissioner.

(f) Any cash surrender value and any paid-up nonforfeiture benefit, available under any such policy in the event of default in the payment of any premium due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the beginning of the policy year in which the default occurs. All values referred to in subsections (b), (c), (d), (d-1), (d-2) and (d-3) may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions. Notwithstanding the provisions of subsection (b), additional benefits payable: ~~(i)~~ (1) In the event of death or dismemberment by accident or accidental means; ~~(ii)~~ (2) in the event of total and permanent disability; ~~(iii)~~ (3) as reversionary annuity or deferred reversionary annuity benefits; ~~(iv)~~ (4) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply; ~~(v)~~ (5) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of a child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child; and ~~(vi)~~ (6) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(g) This subsection, in addition to all other applicable subsections of this section, shall apply to all policies issued on or after January 1, 1986. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than .2% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years, from the sum of: ~~(a)~~ (1) The greater of zero and the basic cash value hereinafter specified; and ~~(b)~~ (2) the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. The effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (b) or (d), whichever is applicable, shall be the same as are the effects specified in subsection (b) or (d), whichever is applicable on the cash surrender values defined in that subsection.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection (d) or (d-3), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

(a) Must be the same percentage for each policy year between the second policy anniversary and the later of: ~~(i)~~ (1) The fifth policy anniversary; and ~~(ii)~~ (2) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least .2% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

(b) must be such that no percentage after the later of the two policy anniversaries specified in the preceding item (a) may apply to fewer than five consecutive policy years.

No basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection (d) or (d-3), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other sections of this act. The cash surrender values referred to in

this subsection shall include any endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections (a), (b), (c), (d-3), and (f). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as items ~~(4)~~ (1) through ~~(6)~~ (6) in subsection (f) shall conform with the principles of this subsection (g).

(h) This section shall not apply to any of the following: (1) Reinsurance; (2) group insurance; (3) pure endowment; (4) annuity or reversionary annuity contract; (5) term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy; (6) term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium calculated as specified in subsections (d), (d-1), (d-2) and (d-3), is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy; (7) policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections (b), (c), (d), (d-1), (d-2) and (d-3), exceeds 2½% of the amount of insurance at the beginning of the same policy year; nor (8) policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

(i) After the effective date of this act, any company may file with the commissioner of insurance a written notice of its election to comply with the provisions of this section other than as provided in subsections (d-1), (d-2), (d-3), (e) and (g) after a specified date. After the filing of such notice, then upon such specified date~~—~~, which shall be the operative date for such company~~),~~ such provisions shall become operative with respect to all policies thereafter issued by such company.

(j) Any company, having filed written notices as provided in the preceding subsection (i), and desiring to withdraw from such election as to

future policies may file with the commissioner of insurance a written notice of such withdrawal after a specified date, and of its intention to value all its future policies in accordance with the provisions of ~~subsection (b) of K.S.A. 40-409(b)~~, and amendments thereto, and to provide non-forfeiture benefits and cash surrender values in future policies in accordance with K.S.A. 40-427. After the filing of such withdrawal notice, then upon such specified date, ~~subsection (b) of K.S.A. 40-409(b)~~, and amendments thereto, and K.S.A. 40-427 shall become operative with respect to all policies thereafter issued by such company in this state.

Sec. 3. K.S.A. 2014 Supp. 40-409 and 40-428 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 1, 2015.

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## CHAPTER 11

### HOUSE BILL No. 2267

AN ACT concerning alternative project delivery; relating to notice requirements and selection procedure; amending K.S.A. 2014 Supp. 72-6760f, 75-37,143, 75-37,144, 75-37,145, 76-7,131 and 76-7,132 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 72-6760f is hereby amended to read as follows: 72-6760f. Construction management at-risk project delivery procedures shall be conducted as follows:

(a) The board shall determine the scope and level of detail required to permit a qualified firm to submit construction management at-risk proposals in accordance with the request for proposals given the nature of the project.

(b) Prior to completion of the construction documents, or as early as during the initiation of the project, the construction manager or general contractor shall be selected. The project design professional may be employed or retained by the board to assist in the selection process.

(c) The board shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such requests in the official newspaper of the school district and with a statewide school board or construction industry association website in accordance with K.S.A. 64-101, and amendments thereto, *to the associated general contractors of Kansas* and in such other appropriate manner as may be determined by the board.

(d) The board shall solicit proposals in a three stage qualifications based selection process. Phase I shall be the solicitation of qualifications

and prequalifying a minimum of three but no more than five firms to advance to phase II. Phase II shall be the solicitation of a request for proposal for the project, and phase III shall include an interview with each proposer to present their qualifications and answer questions.

(1) Phase I shall require all firms to submit a statement of qualifications which shall include, but not be limited to:

- (A) Similar project experience;
- (B) experience in this type of project delivery system;
- (C) references from design professionals and owners from previous projects;
- (D) description of the construction manager or general contractor's project management approach; and

(E) bonding capacity. Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capacity to the board with their statement ~~or~~ of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.

(2) The board shall evaluate the qualifications of all firms in accordance with the instructions of the request for qualifications. The board shall prepare a short list containing a minimum of three and maximum of five qualified firms, which have the best and most relevant qualifications to perform the services required of the project, to participate in phase II of the selection process. If the board receives qualifications from less than four firms, all firms shall be invited to participate in phase II of the selection process. The board shall have discretion to disqualify any firm that, in the board's opinion, lacks the minimal qualifications required to perform the work.

(3) Phase II of the process shall be conducted as follows:

(A) Prequalified firms selected in phase I shall be given a request for proposal. The request for proposal shall require all firms to submit a more in depth response including, but not be limited to:

- (i) Company overview;
- (ii) experience or references, or both, relative to the project under question;
- (iii) resumes of proposed project personnel;
- (iv) overview of preconstruction services;
- (v) overview of construction planning; *and*
- (vi) proposed safety plan;

~~(vii)~~ (B) *All prequalified firms shall submit proposed fees in a format required by the department of administration, including fees for preconstruction services, fees for general conditions, fees for overhead and profit profits directly and only to the secretary of administration. The secretary of administration shall score and rank the proposals for the best value and report such findings to the selection recommendation committee after*

*all other interviews and scoring have been completed. The recommendations of the secretary of administration to the selection recommendation committee shall be open for public review. The scores on fees and profits shall not account for more than 25% of the total possible score.*

(4) Phase III shall be conducted as follows:

(A) Once all proposals have been submitted, the selection recommendation committee shall interview each of the firms in executive session, allowing the competing firms to present their proposed team members, qualifications, project plan and to answer questions. All other discussion and any action taken in the selection process shall be held in an open meeting. Interview scores shall not account for more than 50% of the total possible score.

(B) The selection recommendation committee shall select the firm providing the best value based on the proposal criteria ~~and~~ weighting factors utilized to emphasize important elements of each project for approval by the board *and recommendation of the secretary of administration*. All scoring criteria and weighting factors shall be identified by the board in the request for proposal instructions to firms. The selection recommendation committee shall proceed to negotiate with and attempt to enter into a construction management at-risk contract with the firm receiving the best total score to serve as the construction manager or general contractor for the project. Should the selection recommendation committee be unable to negotiate a satisfactory contract with the firm scoring the best total score, negotiations with that firm shall be terminated, and the committee shall undertake negotiations with the firm with the next best total score, in accordance with this act.

(C) If the selection recommendation committee determines, that it is not in the best interest of the board to proceed with the project pursuant to the proposals offered, the selection recommendation committee shall reject all proposals. If all proposals are rejected, the board may solicit new proposals using different design criteria, budget constraints or qualifications.

(D) The construction management at-risk contract for a project shall be prepared by the board and entered into between the board and the firm performing such construction management at-risk services. A construction management at-risk contract utilizing a cost plus guaranteed maximum price contract value shall return all savings under the guaranteed maximum price to the school district.

(E) The board or the construction manager at-risk, at the board's discretion shall publish a construction services bid notice in the official newspaper of the school district and website of a statewide school board association or construction industry association and in such other appropriate manner for the construction manager or general contractor as may be determined by the board. Each construction services bid notice shall include the request for bids and other bidding information prepared by

the construction manager or general contractor and the board. The board may allow the construction manager or general contractor to self-perform construction services provided the construction manager or general contractor submits a sealed bid proposal under the same conditions as all other competing firms. At the time for opening the bids, the construction manager or general contractor shall evaluate the bids and shall determine the lowest responsible bidder except in the case of self-performed work for which the board shall determine the lowest responsible bidder. The construction manager or general contractor shall enter into a contract with each firm performing the construction services for the project and make a public announcement of each firm selected at the first school board meeting following the selection.

Sec. 2. K.S.A. 2014 Supp. 75-37,143 is hereby amended to read as follows: 75-37,143. (a) Notwithstanding any other provision of the law to the contrary, the state building advisory commission is hereby authorized to institute an alternative project delivery program whereby construction management at-risk or building design-build procurement processes may be utilized on state agency public projects pursuant to this act. This authorization for construction management at-risk and building design-build procurement shall be for the sole and exclusive use of planning, acquiring, designing, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities, or other improvements to any real property, but shall not include highways, roads, bridges, dams, turnpikes or related structures, or stand-alone parking lots.

(b) To assist in the procurement of alternative project delivery construction services as defined 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 the following:

- (1) The firm's capacity and experience, including experience on similar or related projects;
- (2) the capabilities and other qualifications of the firm's personnel; and
- (3) such other information related to qualifications and capability of the firm to perform construction services for projects as may be described by the secretary of administration.

(c) The state building advisory commission shall approve those projects for which the use of alternative project delivery procurement process is appropriate. In making such determination, the commission shall consider the following factors:

- (1) The likelihood that the alternative project delivery method of procurement selected will serve the public interest by providing substantial

savings of time or money over the traditional design-bid-build delivery process.

(2) The ability to overlap design and construction phases is required to meet the needs of the end user.

(3) The use of an accelerated schedule is required to make repairs resulting from an emergency situation.

(4) The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of designers and constructors to solve project challenges during the design or preconstruction phase.

(5) The use of an alternative project delivery method will not encourage favoritism in awarding the public contract or substantially diminish competition for the public contract.

(d) When a request is made for alternative delivery procurement by an agency, the director shall publish a notice in the Kansas register *and notify all active general contractor industry associations in the state* that the state building advisory commission will be holding a public hearing with the opportunity for comment on such request. Notice shall be published *and notifications shall be made* at least 15 days prior to the hearing.

(e) Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, if the state building advisory commission finds that the project does not qualify for the alternative project delivery methods included under this act, then the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the division of facilities management which shall be consistent with the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(f) The secretary of administration may adopt regulations pursuant to K.S.A. 75-3783, and amendments thereto, for the conduct of the alternative project delivery process.

(g) When it is necessary in the judgment of the agency to obtain project services for a particular project as described under this act, the director shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such request in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, *notify all active general contractor industry associations in the state of such request at the same time of the notice* and *publish* in such other appropriate manner as may be determined by the agency.

Sec. 3. K.S.A. 2014 Supp. 75-37,144 is hereby amended to read as follows: 75-37,144. Construction management at-risk project delivery procedures shall be conducted as follows:

(a) The director shall determine the scope and level of detail required to permit qualified construction manager or general contractors to submit construction management at-risk proposals in accordance with the request for proposals given the nature of the project.

(b) Prior to completion of the construction documents, but as early as during the schematic design phase, the construction manager or general contractor shall be selected. The project design professional may be employed or retained by the agency to assist in the selection process. The design professional shall be selected and its contract negotiated in compliance with K.S.A. 75-1257 and 75-5804, and amendments thereto.

(c) The agency shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such requests in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, *notify all active general contractor industry associations in the state of such request at the same time of the notice* and *publish* in such other appropriate manner as may be determined by the agency.

(d) The director shall solicit proposals in a three stage qualifications based selection process. Phase I shall be the solicitation of qualifications and prequalifying a minimum of three but no more than five construction manager or general contractors to advance to phase II. Phase II shall be the solicitation of a request for proposal for the project, and phase III shall include an interview with each proposer to present their qualifications and answer questions.

(1) Phase I shall require all proposers to submit a statement of qualifications which shall include, but not be limited to:

(A) Similar project experience;

(B) experience in this type of project delivery system;

(C) references from design professionals and owners from previous projects;

(D) description of the construction manager or general contractor's project management approach;

(E) financial statements; and

(F) bonding capacity. Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capacity to the state building advisory commission with their statement of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.

(2) The state building advisory commission shall evaluate the qualifications of all proposers in accordance with the instructions of the request for qualifications. The state building advisory commission shall prepare a short list containing a minimum of three and maximum of five qualified firms, which have the best and most relevant qualifications to perform the services required of the project, to participate in phase II of the

selection process. If three qualified proposers cannot be identified, the selection process shall cease. The state building advisory commission shall have discretion to disqualify any proposer that, in the state building advisory commission's opinion, lacks the minimal qualifications required to perform the work.

(3) Phase II of the process shall be conducted as follows:

(A) Prequalified firms selected in phase I shall be given a request for proposal. The request for proposal shall require all proposers to submit a more in depth response including, but not be limited to:

(i) Company overview;

(ii) experience or references, or both, relative to the project under question;

(iii) resumes of proposed project personnel;

(iv) overview of preconstruction services;

(v) overview of construction planning; *and*

(vi) proposed safety plan;

~~(vii)~~ (B) *All proposers shall submit proposed fees, in a format required by the department of administration including fees for preconstruction services, fees for general conditions, fees for overhead and profit and fees for self-performed work, if any, directly and only to the secretary of administration. The secretary of administration shall consider and make recommendations to the negotiating committee on the fees. The recommendations of the secretary of administration to the negotiating committee shall be open for public view. The scores on fees shall not account for more than 25% of the total possible score.*

(4) Phase III shall be conducted as follows:

(A) Once all proposals have been submitted, the negotiating committee shall interview all of the proposers, allowing the competing firms to present their proposed team members, qualifications, project plan and to answer questions. Interview scores shall not account for more than 50% of the total possible score.

(B) The negotiating committee shall select the firm providing the best value based on the proposal criteria ~~and~~, weighting factors utilized to emphasize important elements of each project *and recommendation of the secretary of administration*. All scoring criteria and weighting factors shall be identified by the agency in the request for proposal instructions to proposers. The negotiating committee shall proceed to negotiate with and attempt to enter into contract with the firm receiving the best total score to serve as the construction manager or general contractor for the project. The negotiations shall proceed in accordance with the same process with which negotiations are undertaken to contract with design professionals under K.S.A. 75-1250 and 75-5804, and amendments thereto, to the extent that such provisions are consistent with this act. Should the negotiating committee be unable to negotiate a satisfactory contract with the firm scoring the best total score, negotiations with that firm shall be

terminated, and the committee shall undertake negotiations with the firm with the next best total score, in accordance with this act.

(C) If the negotiating committee determines, that it is not in the best interest of the agency to proceed with the project pursuant to the proposals offered, the negotiating committee shall reject all proposals. If all proposals are rejected, the director may solicit new proposals using different design criteria, budget constraints or qualifications.

(D) The contract to perform construction management at-risk services for a project shall be prepared by the secretary of administration and entered into between the agency and the firm performing such construction management at-risk services. A construction management at-risk contract utilizing a cost plus guaranteed maximum price contract value shall return all savings under the guaranteed maximum price to the agency.

(E) The director shall publish a construction services bid notice in the Kansas register and in such other appropriate manner for the construction manager or general contractor as may be determined by the state agency. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager or general contractor and the state agency 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 or general contractor and the state agency 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. The agency may allow the construction manager or general contractor to self-perform construction services provided the construction manager or general contractor submits a bid proposal under the same conditions as all other competing firms. 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 or general contractor shall evaluate the bids and shall determine the lowest responsible bidder except in the case of self-performed work for which the agency and the department of administration shall determine the lowest responsible bidder. The construction manager or general contractor shall enter into a contract with each firm performing the construction services for the project and make a public announcement of each firm selected in accordance with this subsection.

Sec. 4. K.S.A. 2014 Supp. 75-37,145 is hereby amended to read as follows: 75-37,145. Building design-build project delivery procedures shall be conducted as follows:

(a) The director shall determine the scope and level of detail required

to permit qualified persons to submit building design-build proposals in accordance with the request for proposals given the nature of the project.

(b) Notice of requests for proposals shall be advertised in accordance with K.S.A. 75-430a, and amendments thereto. The director shall publish a notice *and notify all active general contractor industry associations in the state* of a request for proposal with a description of the project, the procedures for submittal and the selection criteria to be used.

(c) The director shall establish in the request for proposal a time, place and other specific instructions for the receipt of proposals. Proposals not submitted in strict accordance with such instructions shall be subject to rejection.

(d) A request for proposals shall be prepared for each building design-build contract containing at minimum the following elements:

(1) The procedures to be followed for submitting proposals, the criteria for evaluation of proposals and their relative weight, and the procedures for making awards.

(2) The proposed terms and conditions for the building design-build contract.

(3) The design criteria package.

(4) A description of the drawings, specifications or other information to be submitted with the proposal, with guidance as to the form and level of completeness of the drawings, specifications or other information that will be acceptable.

(5) A schedule for planned commencement and completion of the building design-build contract.

(6) Budget limits for the building design-build contract, if any.

(7) Requirements, including any available ratings for performance bonds, payment bonds and insurance.

(8) Any other information that the agency at its discretion chooses to supply, including without limitation, surveys, soil reports, drawings of existing structures, environmental studies, photographs or references to public records.

(e) The director shall solicit proposals in a three-stage process. Phase I shall be the solicitation of qualifications of the building design-build team. Phase II shall be the solicitation of a technical proposal including conceptual design for the project and phase III shall be the proposal of the construction cost.

(1) The state building advisory commission shall review the submittals of the proposers and assign points to each proposal as prescribed in the instructions of the request for proposal.

(2) Phase I shall require all proposers to submit a statement of qualifications which shall include, but not be limited to, the following:

(A) Demonstrated ability to perform projects comparable in design, scope and complexity.

(B) References of owners for whom building design-build projects have been performed.

(C) Qualifications of personnel who will manage the design and construction aspects of the project.

(D) The names and qualifications of the primary design consultants and contractors with whom the building design-builder proposes to subcontract. The building design-builder may not replace an identified subcontractor or subconsultant without the written approval of the agency.

(E) Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capability to the state building advisory commission with their statement of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.

(3) The state building advisory commission shall evaluate the qualifications of all proposers in accordance with the instructions prescribed in the request for proposal. Designers on the project shall be evaluated in accordance with the requirements of K.S.A. 74-7003, and amendments thereto. Qualified proposers selected by the evaluation team may proceed to phase II of the selection process. Proposers lacking the necessary qualifications to perform the work shall be disqualified and shall not proceed to phase II of the process. Under no circumstances shall price or fees be considered as a part of the prequalification criteria. Points assigned in the phase I evaluation process shall not carry forward to phase II of the process. All qualified proposers shall be ranked on points given in phases II and III only. The two phase evaluation and scoring process shall be combined to determine the greatest value to the state agency.

(4) The state building advisory commission shall have discretion to disqualify any proposer, which in the state building advisory commission's opinion, lacks the minimal qualifications required to perform the work.

(5) The state building advisory commission shall prepare a short list containing a minimum of three, but no more than the top five qualified proposers to participate in phase II of the process. If three qualified proposers cannot be identified, the contracting process shall cease.

(6) Phase II of the process shall be conducted as follows:

(A) Proposers shall submit their design for the project to the level of detail required in the request for proposal. The design proposal should demonstrate compliance with the requirements set out in the request for proposal.

(B) Up to 20% of the points awarded to each proposer in phase II may be based on each proposer's qualifications and ability to design, construct and deliver the project on time and within budget.

(C) The design proposal shall not contain any reference to the cost of the proposal.

(D) The design submittals shall be evaluated and assigned points in accordance with the requirements of the request for proposal.

(7) Phase III shall be conducted as follows:

(A) The phase III proposal shall provide a firm fixed cost of construction. The proposal shall be accompanied by bid security and any other submittals as required by the request for proposal.

(B) The proposed contract time, in calendar days, for completing a project as designed by a proposer shall be considered as an element of evaluation in phase III. The request for proposal shall establish a user delay value for each proposed calendar day identified in the proposal.

(C) Cost and schedule proposals shall be submitted in accordance with the instructions of the request for proposal. Failure to submit a cost proposal on time shall be cause to reject the proposal.

(8) Proposals for phase II and III shall be submitted concurrently at the time and place specified in the request for proposal. The phase III cost proposals shall be opened only after the phase II design proposals have been evaluated and assigned points.

(9) Phase III cost and schedule, which shall prescribe containing the number of calendar days, proposals shall be opened and read aloud at the time and place specified in the request for proposal. At the same time and place, the evaluation team shall make public its scoring of phase II. Cost proposals shall be evaluated in accordance with the requirements of the request for proposal. In evaluating the proposals, each proposer's adjusted score shall be determined by adding the phase III cost proposal to the product of the proposed contract time and the user delay cost, and dividing that sum by the phase II score.

(10) The responsive proposer with the lowest total number of points shall be awarded the contract. If the director determines, that it is not in the best interest of the state to proceed with the project pursuant to the proposal offered by the proposer with the lowest total number of points, the director shall reject all proposals. In such event, all qualified proposers with higher point totals shall receive a stipend pursuant to subsection (e)(12) of this section, and amendments thereto, of this act, and the proposer with the lowest total number of points shall receive an amount equal to two times such stipend.

(11) If all proposals are rejected, the negotiating committee may solicit new proposals using different design criteria, budget constraints or qualifications.

(12) As an inducement to qualified proposers, the agency shall pay a stipend, the amount of which shall be established in the request for proposal, to each prequalified building design-builder whose proposal is *substantially* responsive but not accepted. Upon payment of the stipend to any unsuccessful building design-build proposer, the state shall acquire a nonexclusive right to use the design submitted by the proposer, and the proposer shall have no further liability for its use by the state in any

manner. If the building design-build proposer desires to retain all rights and interest in the design proposed, the proposer shall forfeit the stipend.

Sec. 5. K.S.A. 2014 Supp. 76-7,131 is hereby amended to read as follows: 76-7,131. (a) As an alternative to the procedure established in K.S.A. 2014 Supp. 76-7,128, and amendments thereto, the state board may establish an alternative project delivery program under which construction management at-risk procurement processes may be utilized for state educational institution construction projects. This authorization for construction management at-risk procurement shall be for the sole and exclusive use of planning, acquiring, designing, building, equipping, altering, repairing, improving or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property.

(b) The state board shall establish a state educational institution procurement committee which shall be composed of five members, or their designees, as follows: (1) The director of facilities at the state board who shall serve as chairperson of the committee; (2) an architect or engineer from a state educational institution; (3) a representative of the associated general contractors of Kansas appointed from a list of at least three nominees submitted by the association to the state board; (4) a representative of the American institute of architects appointed from a list of at least three nominees submitted by the association to the state board; and (5) a representative of the American council of engineering companies appointed from a list of at least three nominees submitted by the association to the state board.

(c) The procurement committee shall review and approve requests for the utilization of alternative project delivery under the state educational institution project delivery building construction procurement act for capital improvement projects financed totally from non-state moneys. If the committee approves a request for utilization of alternative project delivery, the committee shall provide a shortlist of construction managers/design builders for use in such capital improvement project.

(d) The procurement committee shall approve those projects for which the use of alternative project delivery procurement process is appropriate. In making such determination, the committee shall consider the following factors:

(1) The likelihood that the alternative project delivery method of procurement selected will serve the public interest by providing substantial savings of time or money over the traditional design-bid-build delivery process.

(2) The ability to overlap design and construction phases is required to meet the needs of the end user.

(3) The use of an accelerated schedule is required to make repairs resulting from an emergency situation.

(4) The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of designers and constructors to solve project challenges during the design or preconstruction phase.

(5) The use of an alternative project delivery method will not encourage favoritism in awarding the public contract or substantially diminish competition for the public contract.

(e) When a request is made for alternative delivery procurement by a state educational institution, the institution on behalf of the state board shall publish a notice in the Kansas register *and notify all active general contractor industry associations in the state* that the procurement committee will be holding a public hearing with the opportunity for comment on such request. Notice shall be published *and notification shall be made* at least 15 days prior to the hearing.

(f) If the procurement committee finds that the project does not qualify for the alternative project delivery methods included under this act, then the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the state board which shall be consistent with the provisions of this act.

(g) When it is necessary in the judgment of an institution to obtain project services for a particular project as described under this act, the institution shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such request 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 institution.

Sec. 6. K.S.A. 2014 Supp. 76-7,132 is hereby amended to read as follows: 76-7,132. Construction management at-risk project delivery procedures shall be conducted as follows:

(a) The state board shall determine the scope and level of detail required to permit qualified construction manager or general contractors to submit construction management at-risk proposals in accordance with the request for proposals given the nature of the project.

(b) Prior to completion of the construction documents, but as early as during the schematic design phase, the construction manager or general contractor shall be selected. The project design professional may be employed or retained by the institution to assist in the selection process.

(c) The institution shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such requests in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, *notify all active general contractor industry associations in the state of such request at the*

*same time of the notice* and *publish* in such other appropriate manner as may be determined by the institution.

(d) The state board shall solicit proposals in a three stage qualifications based selection process. Phase I shall be the solicitation of qualifications and prequalifying a minimum of three but no more than five construction managers or general contractors to advance to phase II. Phase II shall be the solicitation of a request for proposal for the project, and phase III shall include an interview with each proposer to present their qualifications and answer questions.

(1) Phase I shall require all proposers to submit a statement of qualifications which shall include, but not be limited to:

- (A) Similar project experience;
- (B) experience in this type of project delivery system;
- (C) references from design professionals and owners from previous projects;
- (D) description of the construction manager's or general contractor's project management approach;
- (E) financial statements; and
- (F) bonding capacity.

Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capacity to the procurement committee with their statement of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.

(2) The procurement committee shall evaluate the qualifications of all proposers in accordance with the instructions of the request for qualifications. The procurement committee shall prepare a short list containing a minimum of three and maximum of five qualified firms, which have the best and most relevant qualifications to perform the services required of the project, to participate in phase II of the selection process. If three qualified proposers cannot be identified, the selection process shall cease. The procurement committee shall have discretion to disqualify any proposer that, in the procurement committee's opinion, lacks the minimal qualifications required to perform the work.

(3) Phase II of the process shall be conducted as follows:

(A) Prequalified firms selected in phase I shall be given a request for proposal. The request for proposal shall require all proposers to submit a more in depth response including, but not be limited to:

- (i) Company overview;
- (ii) experience or references, or both, relative to the project under question;
- (iii) resumes of proposed project personnel;
- (iv) overview of preconstruction services;
- (v) overview of construction planning; *and*

(vi) proposed safety plan;

~~(vii)~~(B) *All proposers shall submit proposed fees, including fees for preconstruction services, fees for general conditions, fees for overhead and profit and fees for self-performed work, if any, directly and only to the secretary of administration. The secretary of administration shall consider and make recommendations to the negotiating committee on the fees. The recommendations by the secretary of administration shall be open for public review. The scores on fees shall not account for more than 25% of the total possible score.*

(4) Phase III shall be conducted as follows:

(A) (i) Once all proposals have been submitted, a negotiating committee shall interview all of the proposers, allowing the competing firms to present their proposed team members, qualifications and project plan and to answer questions. Interview scores shall not account for more than 50% of the total possible score.

(ii) A negotiating committee shall be composed of the head of the institution for which the proposed construction project is planned, or a person designated by the head of the institution, and two other persons designated by the head of the institution for which the proposed project is planned.

(B) The negotiating committee shall select the firm providing the best value based on the proposal criteria ~~and~~, weighting factors utilized to emphasize important elements of each project *and recommendation of the secretary of administration*. All scoring criteria and weighting factors shall be identified by the institution in the request for proposal instructions to proposers. The negotiating committee shall proceed to negotiate with and attempt to enter into a contract with the firm receiving the best total score to serve as the construction manager or general contractor for the project. If the negotiating committee be unable to negotiate a satisfactory contract with the firm scoring the best total score, negotiations with that firm shall be terminated, and the committee shall undertake negotiations with the firm with the next best total score, in accordance with this section.

(C) If the negotiating committee determines that it is not in the best interest of the institution to proceed with the project pursuant to the proposals offered, the negotiating committee shall reject all proposals. If all proposals are rejected, the state board may solicit new proposals using different design criteria, budget constraints or qualifications.

(D) The contract to perform construction management at-risk services for a project shall be prepared by the institution and entered into between the institution and the firm performing such construction management at-risk services. A construction management at-risk contract utilizing a cost plus guaranteed maximum price contract value shall return all savings under the guaranteed maximum price to the institution.

(E) The institution shall publish a construction services bid notice in

the Kansas register and in such other appropriate manner for the construction manager or general contractor as may be determined by the institution. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager or general contractor and the institution. The institution may allow the construction manager or general contractor to self-perform construction services provided the construction manager or general contractor submits a bid proposal *prior to receipt of all other bids and* under the same conditions as all other competing firms. 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 or general contractor shall evaluate the bids and shall determine the lowest responsible bidder except in the case of self-performed work for which the institution shall determine the lowest responsible bidder. The construction manager or general contractor shall enter into a contract with each firm performing the construction services for the project and make a public announcement of each firm selected in accordance with this subsection.

Sec. 7. K.S.A. 2014 Supp. 72-6760f, 75-37,143, 75-37,144, 75-37,145, 76-7,131 and 76-7,132 are hereby repealed.

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

Approved April 1, 2015.

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## CHAPTER 12

SENATE BILL No. 73  
(Amended by Chapter 100)

AN ACT concerning motor vehicles; relating to definitions; amending K.S.A. 2014 Supp. 8-126, 8-1402a and 8-1493 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 8-126 is hereby amended to read as follows: 8-126. The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

(a) “All-terrain vehicle” means any motorized nonhighway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less; *and* traveling on three or more nonhighway tires, ~~having a seat designed to be straddled by the operator. As used in this subsection, nonhighway tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 14 inches or less.~~

(b) “Commission” or “state highway commission” means the director of vehicles of the department of revenue.

(c) “Contractor” means a person, partnership, corporation, local government, county government, county treasurer or other state agency that has contracted with the department to provide services associated with vehicle functions.

(d) “Department” or “motor vehicle department” or “vehicle department” means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

(e) “Division” means the division of vehicles of the department of revenue.

(f) “Electric personal assistive mobility device” means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(g) “Electric vehicle” means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electrical energy storage devices, provided the recharge energy must be drawn from a source off the vehicle, such as, but not limited to:

(1) Residential electric service;

(2) an electric vehicle charging station, also called an EV charging station, an electric recharging point, a charging point, EVSE (Electric Vehicle Supply Equipment) or a public charging station.

(h) “Electronic certificate of title” means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2014 Supp. 8-135d, and amendments thereto.

(i) “Electronic notice of security interest” means the division’s online internet program which enables a dealer or secured party to submit a notice of security interest as defined in this section, and to cancel the notice or release the security interest using the program. This program is also known as the Kansas elien or KSelien.

(j) “Farm tractor” means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(k) “Farm trailer” means every trailer and semitrailer as those terms are defined in this section, designed and used primarily as a farm vehicle.

(l) “Foreign vehicle” means every motor vehicle, trailer, or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

(m) “Golf cart” means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles

per hour and is designed to carry not more than four persons including the driver.

(n) “Highway” means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term “highway” shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(o) “Implement of husbandry” means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

- (1) A farm tractor;
- (2) a self-propelled farm implement;
- (3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;
- (4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;
- (5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

(p) “Lien” means a security interest as defined in this section.

(q) “Lightweight roadable vehicle” means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal aviation administration.

(r) “Manufacturer” means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(s) “Micro utility truck” means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. “Micro utility truck” does not include a work-site utility vehicle or recreational off-highway vehicle.

(t) “Motor vehicle” means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

(u) “Motorcycle” means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term “tractor” as defined in this section.

(v) “Motorized bicycle” means every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has:

- (1) A motor which produces not more than 3.5 brake horsepower;
- (2) a cylinder capacity of not more than 130 cubic centimeters;
- (3) an automatic transmission; and
- (4) the capability of a maximum design speed of no more than 30 miles per hour.

(w) “Motorized wheelchair” means any self-propelled vehicle designed specifically for use by a physically disabled person and such vehicle is incapable of a speed in excess of 15 miles per hour.

(x) “New vehicle dealer” means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer’s contract therefor from a manufacturer or distributor and who has an established place of business in this state.

(y) “Nonresident” means every person who is not a resident of this state.

(z) “Notice of security interest” means a notification to the division from a dealer or secured party of a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, upon a vehicle which has been sold and delivered to the purchaser describing the vehicle and showing the name, address and acknowledgment of the secured party as well as the name and address of the debtor or debtors and other information the division requires.

(aa) “Oil well servicing, oil well clean-out or oil well drilling machinery or equipment” means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(bb) “Owner” means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(cc) “Passenger vehicle” means every motor vehicle, as defined in this section, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

(dd) “Person” means every natural person, firm, partnership, association or corporation.

(ee) “Pole trailer” means any two-wheel vehicle used as a trailer with

bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

(ff) “Recreational off-highway vehicle” means any motor vehicle *more than 50 but not greater than 64 inches* ~~or less~~ in width, having a dry weight of 2,000 pounds or less, traveling on four or more nonhighway tires, ~~having a nonstraddle seat and steering wheel for steering control.~~

(gg) “Road tractor” means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

(hh) “Self-propelled farm implement” means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(ii) “Semitrailer” means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(jj) “Specially constructed vehicle” means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(kk) “Trailer” means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(ll) “Travel trailer” means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

(mm) “Truck” means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

(nn) “Truck tractor” means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

(oo) “Used vehicle dealer” means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer’s contract for the sale of new motor vehicles, travel trailers or vehicles.

(pp) “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

(qq) “Vehicle functions” means services relating to the application, processing, auditing or distribution of original or renewal vehicle registrations, certificates of title, driver’s licenses and division-issued identifi-

cation cards associated with services and functions set out in articles 1, 2 and 13 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto. "Vehicle functions" may also include personal property taxation duties set out in article 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and other vehicle-related events described in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

(rr) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, ~~has an overall length, including the bumper, of not more than 135 inches,~~ has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more ~~low pressure~~ *nonhighway* tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck or recreational off-highway vehicle.

Sec. 2. K.S.A. 2014 Supp. 8-1402a is hereby amended to read as follows: 8-1402a. "All-terrain vehicle" means any motorized nonhighway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less; *and* traveling on three or more nonhighway tires ~~and having a seat designed to be straddled by the operator. As used in this section, "nonhighway tire" means any pneumatic tire six inches or more in width, designed for use on wheels with a rim diameter of 14 inches or less.~~

Sec. 3. K.S.A. 2014 Supp. 8-1493 is hereby amended to read as follows: 8-1493. "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, ~~has an overall length, including the bumper, of not more than 135 inches,~~ has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more ~~low pressure~~ *nonhighway* tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck.

Sec. 4. K.S.A. 2014 Supp. 8-126, 8-1402a and 8-1493 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 1, 2015.

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## CHAPTER 13

## SENATE BILL No. 150

AN ACT concerning motor carriers; relating to the regulation thereof; representation before the corporation commission; amending K.S.A. 2014 Supp. 66-1,142b and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 66-1,142b is hereby amended to read as follows: 66-1,142b. (a) Any person violating any statute, commission orders or rules and regulations adopted by the state corporation commission pursuant to the motor carrier act and other laws relevant to motor carriers shall be subject to a civil penalty of not less than \$100 and not more than \$1,000 for negligent violations, and not more than \$5,000 for intentional violations.

(b) In construing and enforcing a civil penalty in accordance with this section, any act, omission or failure of any officer, agent or other person acting for or employed by any motor carrier while acting within the scope of such person's employment, shall in every case be deemed the act, omission or failure of the motor carrier.

(c) Every day during which the person fails to comply with any order of the commission, or any applicable statute, rule or regulation, shall constitute a separate and distinct violation.

(d) Civil penalties shall be enforced and collected by an attorney for the corporation commission in the appropriate district court.

(e) *For civil penalties of \$500 or less, the commission shall allow a duly authorized representative of the corporation or an attorney to enter an appearance and represent the corporation operating as a motor carrier under the provisions of this act.*

(f) A civil penalty shall not be enforced under this section for a violation of an out-of-service order, if a civil penalty was enforced against a driver under ~~subsection (a) of K.S.A. 2014 Supp. 8-2,152(a)~~, and amendments thereto, or against an employer under ~~subsection (b) of K.S.A. 2014 Supp. 8-2,152(b)~~, and amendments thereto.

~~(f)~~(g) Civil penalties shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the motor carrier license fee fund.

~~(g)~~(h) The commission is granted the power, by general order or otherwise, to prescribe reasonable rules and regulations for the assessment of administrative civil penalties and sanctions for violations of any statute, commission orders or rules and regulations adopted by the commission.

Sec. 2. K.S.A. 2014 Supp. 66-1,142b 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 1, 2015.

Published in the *Kansas Register* April 9, 2015.

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## CHAPTER 14

### SENATE BILL No. 109\*

AN ACT concerning emergencies and disasters; creating the Kansas disaster utilities response act; department of revenue.

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

Section 1. (a) For the purposes of this section:

(1) “Declared state disaster or emergency” means a disaster or emergency event declared by the governor pursuant to K.S.A. 48-924, and amendments thereto, a state or local disaster emergency declared by the chair of the board of county commissioners of any county or by the mayor or other principal executive officer of a city pursuant to K.S.A. 48-932, and amendments thereto, or a presidential declaration of a federal major disaster or emergency.

(2) “Disaster response period” means a period that begins 10 days prior to the first day of a declared state disaster or emergency and that extends for a period of 60 calendar days after the end of the declared disaster or emergency period or any longer period authorized by the governor.

(3) “Disaster or emergency-related work” means work in preparation for a disaster and repairing, renovating, installing, building or rendering services or other business activities on or related to critical infrastructure that has been damaged, impaired or destroyed by any declared state disaster or emergency.

(4) “Critical infrastructure” means property and equipment, or any related support facilities that service multiple customers or citizens, including, but not limited to, real and personal property such as buildings, offices, lines, poles, pipes, structures and equipment, that are owned or used by operators of:

- (A) Telecommunications, cable or other communications networks;
- (B) electric generation, transmission or distribution systems;
- (C) natural gas and natural gas liquids gathering, processing, storage, transmission or distribution systems; or
- (D) water pipelines.

(5) “Registered business” means a business entity that, prior to any declared state disaster or emergency and work related thereto, is regis-

tered with the secretary of state, in good standing and authorized to do business in the state.

(6) “Out-of-state business” means a business entity that, prior to any declared state disaster or emergency and work related thereto:

(A) Has no presence, registrations or tax filings in the state and conducts no business in the state except for disaster or emergency-related work during any disaster response period; and

(B) is requested by a registered business, state agency, county or city disaster agency established pursuant to K.S.A. 48-929, and amendments thereto, or interjurisdictional disaster agency established pursuant to K.S.A. 48-930, and amendments thereto, to provide disaster or emergency-related work in the state during any disaster response period. An “out-of-state business” shall also include a business entity affiliated with a registered business solely through common ownership.

(7) “Out-of-state employee” means an individual who does not work in the state, except for disaster or emergency-related work during any disaster response period.

(8) “State agency” shall have the meaning ascribed to such term in K.S.A. 75-3701, and amendments thereto.

(b) (1) An out-of-state business that conducts operations within the state for purposes of performing disaster or emergency-related work during any disaster response period shall not be considered to have established a level of presence, as a result of such disaster or emergency-related work, that would require that business to register, file or remit state or local taxes or that would require that business or such business’ out-of-state employees to be subject to any state licensing or registration requirements, including:

(A) Any and all state or local business licensing or registration requirements;

(B) state or local taxes or fees including, but not limited to, state income and employer withholding taxes, unemployment insurance, state or local occupational licensing fees, sales and use tax or ad valorem tax on equipment used or consumed during any disaster response period; and

(C) licensing and regulatory requirements of the state corporation commission or the secretary of state.

(2) For purposes of any state or local tax on or measured by, in whole or in part, net or gross income or receipts, all disaster or emergency-related work of the out-of-state business that is conducted in this state pursuant to this section shall be disregarded with respect to any filing requirements for such tax, including the filing required for a unitary or combined group of which the out-of-state business may be a part. For the purpose of apportioning income, revenue or receipts, the performance by an out-of-state business of any work in accordance with this sec-

tion shall not be sourced to or shall not otherwise impact or increase the amount of income, revenue or receipts apportioned to this state.

(3) Any out-of-state employee shall not be considered to have established residency or a presence in the state that would require the employee or the employee's employer to file and pay state income taxes or to be subjected to tax withholdings or to file and pay any other state or local tax or fee during any disaster response period. This includes any related state or local employer withholding and remittance obligations.

(c) Out-of-state businesses and out-of-state employees shall pay transaction taxes and fees, including, but not limited to, fuel taxes or sales or use taxes, on tangible personal property, materials or services, consumed or used in the state subject to sales or use taxes, hotel taxes, car rental taxes or fees that the out-of-state business or out-of-state employee purchases for use or consumption in the state during any disaster response period, unless such taxes are otherwise exempted during such disaster response period.

(d) Any out-of-state business or out-of-state employee that remains in the state after any disaster response period will become subject to the state's normal standards for establishing presence, residency or doing business in the state and will be responsible for any business or employee tax requirements or obligations thereafter.

(e) (1) Any out-of-state business that enters the state shall, upon request, provide to the department of revenue a written statement that such out-of-state business is in the state for purposes of responding to a declared state disaster or emergency. Such statement shall include the out-of-state business' name, state of domicile, principal business address, federal tax identification number, date of entry and contact information.

(2) A registered business shall, upon request, provide the department of revenue the information required in this subsection for any affiliate that enters the state that is an out-of-state business. The notification shall also include contact information for the registered business.

(3) Any out-of-state business or out-of-state employee that remains in the state after any disaster response period shall complete and comply with all state and local registration, licensing and filing requirements that ensue as a result of establishing the requisite business presence or residency in the state applicable under the existing rules.

(4) The department of revenue shall maintain an annual record of all declared state disasters and emergencies pursuant to this section and may promulgate any rules and regulations necessary to effectuate the provisions of this section.

(f) No provision of this act shall be interpreted to exempt any person from the requirements of K.S.A. 2014 Supp. 50-6,121 through 50-6,138, and amendments thereto.

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

Approved April 1, 2015.

Published in the *Kansas Register* April 9, 2015.

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CHAPTER 15

SENATE BILL No. 43°

AN ACT designating a portion of K-8 as the home on the range highway.

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

Section 1. That portion of K-8 highway from the junction of K-8 highway with United States highway 36, north on K-8 highway to the Nebraska state line is hereby designated as the home on the range 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 home on the range 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. 2. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 2, 2015.

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CHAPTER 16

SENATE BILL No. 45  
(Amended by Chapter 93)

AN ACT concerning firearms; relating to the carrying of concealed firearms; relating to the personal and family protection act; amending K.S.A. 2014 Supp. 21-5914, 21-6301, 21-6302, 21-6308, 21-6309, 32-1002, 75-7c01, 75-7c03, 75-7c04, 75-7c05, 75-7c10, 75-7c17, 75-7c20 and 75-7c21 and repealing the existing sections; also repealing K.S.A. 2014 Supp. 75-7c19.

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

Section 1. K.S.A. 2014 Supp. 21-5914 is hereby amended to read as follows: 21-5914.(a) Traffic in contraband in a correctional institution or care and treatment facility is, without the consent of the administrator of the correctional institution or care and treatment facility:

(1) Introducing or attempting to introduce any item into or upon the grounds of any correctional institution or care and treatment facility;

(2) taking, sending, attempting to take or attempting to send any item from any correctional institution or care and treatment facility;

(3) any unauthorized possession of any item while in any correctional institution or care and treatment facility;

(4) distributing any item within any correctional institution or care and treatment facility;

(5) supplying to another who is in lawful custody any object or thing adapted or designed for use in making an escape; or

(6) introducing into an institution in which a person is confined any object or thing adapted or designed for use in making any escape.

(b) Traffic in contraband in a correctional institution or care and treatment facility is a:

(1) Severity level 6, nonperson felony, except as provided in subsection (b)(2) or (b)(3);

(2) severity level 5, nonperson felony if such items are:

(A) Firearms, ammunition, explosives or a controlled substance which is defined in K.S.A. 2014 Supp. 21-5701, and amendments thereto, except as provided in subsection (b)(3);

(B) defined as contraband by rules and regulations adopted by the secretary of corrections, in a state correctional institution or facility by an employee of a state correctional institution or facility, except as provided in subsection (b)(3);

(C) defined as contraband by rules and regulations adopted by the secretary for aging and disability services, in a care and treatment facility by an employee of a care and treatment facility, except as provided in subsection (b)(3); or

(D) defined as contraband by rules and regulations adopted by the commissioner of the juvenile justice authority, in a juvenile correctional facility by an employee of a juvenile correctional facility, except as provided by subsection (b)(3); and

(3) severity level 4, nonperson felony if:

(A) Such items are firearms, ammunition or explosives, in a correctional institution by an employee of a correctional institution or in a care and treatment facility by an employee of a care and treatment facility; or

(B) a violation of subsection (a)(5) or (a)(6) by an employee or volunteer of the department of corrections, or the employee or volunteer of a contractor who is under contract to provide services to the department of corrections.

(c) The provisions of subsection (b)(2)(A) shall not apply to the possession of a firearm or ammunition ~~by a person licensed under the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto,~~ in a parking lot open to the public if the firearm or ammunition is carried on the person while in a vehicle or while securing the firearm

or ammunition in the vehicle, or stored out of plain view in a locked but unoccupied vehicle.

(d) As used in this section:

(1) “Correctional institution” means any state correctional institution or facility, conservation camp, state security hospital, juvenile correctional facility, community correction center or facility for detention or confinement, juvenile detention facility or jail;

(2) “care and treatment facility” means the state security hospital provided for under K.S.A. 76-1305 et seq., and amendments thereto, and a facility operated by the Kansas department for aging and disability services for the purposes provided for under K.S.A. 59-29a02 et seq., and amendments thereto; and

(3) “lawful custody” means the same as in K.S.A. 2014 Supp. 21-5912, and amendments thereto.

Sec. 2. K.S.A. 2014 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 commit-

ment 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) possessing any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(11) 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 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) 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) 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.

(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 keep-

ers 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 department 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) 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; *or*

(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 *concealed* handgun by an individual who is ~~licensed by the attorney general to carry a concealed handgun under K.S.A. 2014 Supp. 75-7c01 et seq., and amendments thereto~~ *not prohibited from possessing a firearm under either federal or state law.*

(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. 2014 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. 2014 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. 3. K.S.A. 2014 Supp. 21-6302 is hereby amended to read as follows: 21-6302. (a) Criminal carrying of a weapon is knowingly carrying:

- (1) Any bludgeon, sandclub, metal knuckles or throwing star;
- (2) concealed on one's person, a billy, blackjack, slungshot or any other dangerous or deadly weapon or instrument of like character;
- (3) on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance; *or*
- (4) any pistol, revolver or other firearm concealed on one's person *if such person is under 21 years of age*, except when on ~~the~~ *such* person's land or in ~~the~~ *such* person's abode or fixed place of business; or
- (5) a shotgun with a barrel less than 18 inches in length or any other 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.

(b) Criminal carrying of a weapon as defined in:

(1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson misdemeanor; and

(2) subsection (a)(5) is a severity level 9, nonperson felony.

(c) Subsection (a) 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) Subsection (a)(4) shall not apply to:~~

~~(1) Watchmen, while actually engaged in the performance of the duties of their employment;~~

~~(2) licensed hunters or fishermen, while engaged in hunting or fishing;~~

~~(3) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;~~

~~(4) detectives or special agents regularly employed by railroad com-~~

panies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

~~(5) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto;~~

~~(6) special deputy sheriffs described in K.S.A. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a, and amendments thereto;~~

~~(7) the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed. The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 2014 Supp. 75-7c19, and amendments thereto;~~

~~(8) any law enforcement officer, as that term is defined in K.S.A. 2014 Supp. 75-7c22, and amendments thereto, who satisfies the requirements of either subsection (a) or (b) of K.S.A. 2014 Supp. 75-7c22, and amendments thereto; or~~

~~(9) any person carrying a concealed handgun as authorized by K.S.A. 2014 Supp. 75-7c01 et seq., and amendments thereto.~~

~~(e)(d)~~ Subsection (a)(5) shall not apply to:

(1) 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;

(2) any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsection (a)(5) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory; or

(3) any person or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et seq.

~~(f) It shall not be a violation of this section if a person violates the provisions of K.S.A. 2014 Supp. 75-7c03, and amendments thereto, but~~

~~has an otherwise valid license to carry a concealed handgun which is issued or recognized by this state.~~

~~(g)-(e)~~ As used in this section, “throwing star” means the same as prescribed by K.S.A. 2014 Supp. 21-6301, and amendments thereto.

Sec. 4. K.S.A. 2014 Supp. 21-6308 is hereby amended to read as follows: 21-6308. (a) Criminal discharge of a firearm is the:

(1) Reckless and unauthorized discharge of any firearm:

(A) At a dwelling, building or structure in which there is a human being whether the person discharging the firearm knows or has reason to know that there is a human being present;

(B) at a motor vehicle, aircraft, watercraft, train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock or other means of conveyance of persons or property in which there is a human being whether the person discharging the firearm knows or has reason to know that there is a human being present;

(2) reckless and unauthorized discharge of any firearm at a dwelling in which there is no human being; or

(3) discharge of any firearm:

(A) Upon any land or nonnavigable body of water of another, without having obtained permission of the owner or person in possession of such land; or

(B) upon or from any public road, public road right-of-way or railroad right-of-way except as otherwise authorized by law.

(b) Criminal discharge of a firearm as defined in:

(1) Subsection (a)(1) is a:

(A) Severity level 7, person felony except as provided in subsection (b)(1)(B) or (b)(1)(C);

(B) severity level 3, person felony if such criminal discharge results in great bodily harm to a person during the commission thereof; or

(C) severity level 5, person felony if such criminal discharge results in bodily harm to a person during the commission thereof;

(2) subsection (a)(2) is a severity level 8, person felony; and

(3) subsection (a)(3) is a class C misdemeanor.

(c) Subsection (a)(1) shall not apply if the act is a violation of ~~subsection (d) of~~ K.S.A. 2014 Supp. 21-5412(d), and amendments thereto.

(d) Subsection (a)(3) shall not apply to any of the following:

(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 national guard while in the performance of their official duty;

(4) watchmen, while actually engaged in the performance of the duties of their employment;

(5) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(6) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(7) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto; or

(8) the United States attorney for the district of Kansas, the attorney general, or any district attorney or county attorney, while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant United States attorney if authorized by the United States attorney for the district of Kansas and while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant attorney general if authorized by the attorney general and while actually engaged in the duties of their employment or any activities incidental to such duties; or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed and while actually engaged in the duties of their employment or any activities incidental to such duties. ~~The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 2014 Supp. 75-7c19, and amendments thereto.~~

Sec. 5. K.S.A. 2014 Supp. 21-6309 is hereby amended to read as follows: 21-6309. (a) It shall be unlawful to possess, with no requirement of a culpable mental state, a firearm:

(1) Within any building located within the capitol complex;

(2) within the governor's residence;

(3) on the grounds of or in any building on the grounds of the governor's residence;

(4) within any other state-owned or leased building if the secretary of administration has so designated by rules and regulations and conspicuously placed signs clearly stating that firearms are prohibited within such building; or

(5) within any county courthouse, unless, by county resolution, the board of county commissioners authorize the possession of a firearm within such courthouse.

(b) Violation of this section is a class A misdemeanor.

(c) This section shall not apply to:

- (1) A commissioned law enforcement officer;
- (2) a full-time salaried law enforcement officer of another state or the federal government who is carrying out official duties while in this state;
- (3) any person summoned by any such officer to assist in making arrests or preserving the peace while actually engaged in assisting such officer; or
- (4) a member of the military of this state or the United States engaged in the performance of duties.

(d) It is not a violation of this section for ~~the~~:

(1) *The* governor, the governor's immediate family, or specifically authorized guest of the governor to possess a firearm within the governor's residence or on the grounds of or in any building on the grounds of the governor's residence;

(2) *the* United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse and court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. ~~The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 2014 Supp. 75-7c19, and amendments thereto; or~~

(3) law enforcement officers, as that term is defined in K.S.A. 2014 Supp. 75-7c22, and amendments thereto, who satisfy the requirements of either ~~subsection (a) or (b) of K.S.A. 2014 Supp. 75-7c22(a) or (b), and amendments thereto, to possess a firearm; or~~

(4) *an individual to possess a concealed handgun provided such individual is not prohibited from possessing a firearm under either federal or state law.*

~~(e) It is not a violation of this section for a person to possess a handgun as authorized under the personal and family protection act.~~

~~(f)~~(e) Notwithstanding the provisions of this section, any county may elect by passage of a resolution that the provisions of subsection (d)(2) shall not apply to such county's courthouse or court-related facilities if such:

(1) Buildings have adequate security measures to ensure that no weapons are permitted to be carried into such buildings;

(2) county also has a policy or regulation requiring all law enforcement officers to secure and store such officer's firearm upon entering the courthouse or court-related facility. Such policy or regulation may provide that it does not apply to court security or sheriff's office personnel for such county; and

(3) buildings have a sign conspicuously posted at each entryway into such building stating that the provisions of subsection (d)(2) do not apply to such building.

~~(g)~~(f) As used in this section:

(1) “Adequate security measures” shall have the same meaning as the term is defined in K.S.A. 2014 Supp. 75-7c20, and amendments thereto;

(2) “possession” means having joint or exclusive control over a firearm or having a firearm in a place where the person has some measure of access and right of control; and

(3) “capitol complex” means the same as in K.S.A. 75-4514, and amendments thereto.

~~(h)~~(g) For the purposes of subsections (a)(1), (a)(4) and (a)(5), “building” and “courthouse” shall not include any structure, or any area of any structure, designated for the parking of motor vehicles.

Sec. 6. K.S.A. 2014 Supp. 32-1002 is hereby amended to read as follows: 32-1002. (a) Unless and except as permitted by law or rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto, it is unlawful for any person to:

(1) Hunt, fish, furharvest or take any wildlife in this state by any means or manner;

(2) possess any wildlife, dead or alive, at any time or in any number, in this state;

(3) purchase, sell, exchange, ship or offer for sale, exchange or shipment any wildlife in this state;

(4) take any wildlife in this state for sale, exchange or other commercial purposes;

(5) possess any seine, trammel net, hoop net, fyke net, fish gig, fish spear, fish trap or other device, contrivance or material for the purpose of taking wildlife; or

(6) take or use, at any time or in any manner, any game bird, game animal, coyote or furbearing animal, whether pen-raised or wild, in any field trial or for training dogs.

(b) The provisions of subsections (a)(2) and (a)(3) do not apply to animals sold in surplus property disposal sales of department exhibit herds or animals legally taken outside this state, except the provisions of subsection (a)(3) shall apply to:

(1) The meat of game animals legally taken outside this state; and

(2) other restrictions as provided by rule and regulation of the secretary.

(c) The provisions of this section shall not be construed to prevent:

(1) Any person from taking starlings or English and European sparrows;

(2) owners or legal occupants of land from killing any animals when found in or near buildings on their premises or when destroying property,

subject to the following: (A) The provisions of all federal laws and regulations governing protected species and the provisions of K.S.A. 32-957 through 32-963, and amendments thereto, and rules and regulations adopted thereunder; (B) it is unlawful to use, or possess with intent to use, any such animal so killed unless authorized by rules and regulations of the secretary; and (C) such owners or legal occupants shall make reasonable efforts to alleviate their problems with any such animals before killing them;

~~(3) any person who is licensed under the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, from exercising the right to carry a concealed handgun while lawfully hunting, fishing or furharvesting;~~

~~(4)~~—any person who lawfully possesses a handgun from carrying such handgun, *whether concealed or openly carried*, while lawfully hunting, fishing or furharvesting; or

~~(5)~~(4) any person who lawfully possesses a device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm from using such device or attachment in conjunction with lawful hunting, fishing or furharvesting.

(d) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.

Sec. 7. K.S.A. 2014 Supp. 75-7c01 is hereby amended to read as follows: 75-7c01. K.S.A. 2014 Supp. 75-7c01 through ~~75-7c19~~ 75-7c23, and amendments thereto, shall be known and may be cited as the personal and family protection act.

Sec. 8. K.S.A. 2014 Supp. 75-7c03 is hereby amended to read as follows: 75-7c03. (a) The attorney general shall issue licenses to carry concealed handguns to persons who comply with the application and training requirements of this act and who are not disqualified under K.S.A. 2014 Supp. 75-7c04, and amendments thereto. Such licenses shall be valid throughout the state for a period of four years from the date of issuance. *The availability of licenses to carry concealed handguns under this act shall not be construed to impose a general prohibition on the carrying of handguns without such license, whether carried openly or concealed, or loaded or unloaded.*

(b) The license shall be a separate card, in a form prescribed by the attorney general, that is approximately the size of a Kansas driver's license and shall bear the licensee's signature, name, address, date of birth and driver's license number or nondriver's identification card number except that the attorney general shall assign a unique number for military applicants or their dependents described in ~~subsection (a)(1)(B)~~ of K.S.A. 2014 Supp. 75-7c05(a)(1)(B), and amendments thereto. ~~At all times when the~~

licensee is in actual possession of a concealed handgun, the licensee shall carry the valid license to carry concealed handguns. On demand of a law enforcement officer, the licensee shall display the license to carry concealed handguns and proper identification. Verification by a law enforcement officer that a person holds a valid license to carry a concealed handgun may be accomplished by record check using the person's driver's license information or the person's concealed carry license number.

The license of any person who violates the provisions of this subsection shall be suspended for not less than 30 days upon the first violation and shall be revoked for not less than five years upon a second or subsequent violation. However, a violation of this subsection shall not constitute a violation of subsection (a)(4) of K.S.A. 21-4201, prior to its repeal, or subsection (a)(4) of K.S.A. 2014 Supp. 21-6302, and amendments thereto, if the licensee's license is valid.

(c) (1) Subject to the provisions of subsection (c)(2), a valid license or permit to carry concealed weapons, issued by another jurisdiction, shall be recognized by this state, but only while the holder is not a resident of Kansas.

(2) A valid license or permit that is recognized by this subsection, and a 180-day receipt that has been issued in accordance with this section, shall only entitle the lawful holder thereof to carry concealed handguns, as defined by K.S.A. 2014 Supp. 75-7c02, and amendments thereto, in this state and the holder thereof shall otherwise act in accordance with the laws of this state while such holder is present in this state.

(d) The attorney general shall issue a 180-day receipt to a person who:

(1) Establishes residency in this state on and after July 1, 2010;

(2) except as provided in subsection (e), submits an application for licensure under this act in accordance with subsection (b) of K.S.A. 2014 Supp. 75-7c05, and amendments thereto; and

(3) submits with such person's application for licensure a photocopy of a valid license or permit to carry concealed handguns issued by another jurisdiction.

(e) Prior to the expiration of the 180-day receipt, an applicant for licensure under this section shall submit proof of training to the attorney general which was:

(1) Completed in accordance with subsection (b)(1) of K.S.A. 2014 Supp. 75-7c04, and amendments thereto; or

(2) utilized to obtain the applicant's license or permit from another jurisdiction and the attorney general determines that such prior training is equal to or greater than the training standards required by this act.

Submission of an applicant's proof of training under this subsection is considered complete on the date the proof of training is either hand-delivered to the attorney general or, if sent by mail, on the date the mailing is postmarked.

(f) (1) Except as provided in subsection (f)(3), an applicant for licen-

~~sure under this section may continue to carry concealed handguns in this state upon receiving a 180-day receipt issued by the attorney general.~~

~~(2) At all times when the applicant is carrying a concealed handgun, the applicant shall carry: (A) Such applicant's valid license or permit from another jurisdiction; and (B) the 180-day receipt issued by the attorney general.~~

~~(3) An applicant whose concealed carry license or permit from another jurisdiction becomes invalid prior to the expiration of the attorney general's 180-day receipt may not carry concealed handguns unless otherwise allowed by law.~~

~~(g) The attorney general may:~~

~~(1) Create a list of concealed carry handgun licenses or permits issued by other jurisdictions which the attorney general finds have training requirements that are equal to or greater than those of this state and will automatically qualify for recognition under this section; and~~

~~(2) review each application received under this section to determine if the applicant's previous training qualifications were equal to or greater than those of this state.~~

~~(h) (1) Prior to the expiration of the applicant's 180-day receipt, the attorney general shall either approve or deny an application under this section.~~

~~(2) Upon successful review of a background check in accordance with K.S.A. 2014 Supp. 75-7c05, and amendments thereto, and upon receipt of all required documentation and moneys outlined in this section, the attorney general shall approve an application received under this section.~~

~~(3) If an applicant under this section is disqualified under the provisions of K.S.A. 2014 Supp. 75-7c04, and amendments thereto, or fails to submit sufficient proof of training, the attorney general shall deny the application in accordance with K.S.A. 2014 Supp. 75-7c07, and amendments thereto.~~

~~(i) For the purposes of this section:~~

~~(1) "Equal to or greater than" means the applicant's prior training meets or exceeds the training established in this act by having required, at a minimum, the applicant to: (A) Receive instruction on the laws of self-defense; and (B) demonstrate training and competency in the safe handling, storage and actual firing of handguns.~~

~~(2) "Jurisdiction" means another state or the District of Columbia.~~

~~(3) "Valid license or permit" means a concealed carry handgun license or permit from another jurisdiction which has not expired and, except for any residency requirement of the issuing jurisdiction, is currently in good standing.~~

Sec. 9. K.S.A. 2014 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. 2014 Supp. 21-6301(a)(10) through (a)(13) or subsections (a)(1) through (a)(3) of K.S.A. 2014 Supp. 21-6304(a)(1) through (a)(3)~~, and amendments thereto;

(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. 2014 Supp. 21-6304(a)(1) and (a)(3)~~, 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. 2014 Supp. 75-7c03, and amendments thereto (c).

(c) *The attorney general may:*

(1) *Create a list of concealed carry handgun licenses or permits issued by other jurisdictions which the attorney general finds have training requirements that are equal to or greater than those of this state; and*

(2) *review each application received pursuant to K.S.A. 2014 Supp. 75-7c05, and amendments thereto, to determine if the applicant's previous training qualifications were equal to or greater than those of this state.*

(d) *For the purposes of this section:*

(1) *"Equal to or greater than" means the applicant's prior training meets or exceeds the training established in this section by having required, at a minimum, the applicant to: (A) Receive instruction on the laws of self-defense; and (B) demonstrate training and competency in the safe handling, storage and actual firing of handguns.*

(2) *"Jurisdiction" means another state or the District of Columbia.*

(3) *"License or permit" means a concealed carry handgun license or permit from another jurisdiction which has not expired and, except for any residency requirement of the issuing jurisdiction, is currently in good standing.*

Sec. 10. K.S.A. 2014 Supp. 75-7c05 is hereby amended to read as follows: 75-7c05. (a) The application for a license pursuant to this act shall be completed, under oath, on a form prescribed by the attorney general and shall only include:

(1) (A) Subject to the provisions of subsection (a)(1)(B), the name, address, social security number, Kansas driver's license number or Kansas nondriver's license identification number, place and date of birth, a photocopy of the applicant's driver's license or nondriver's identification card and a photocopy of the applicant's certificate of training course completion; (B) in the case of an applicant who presents proof that such person is on active duty with any branch of the armed forces of the United States, or is the dependent of such a person, and who does not possess a Kansas driver's license or Kansas nondriver's license identification, the number of such license or identification shall not be required;

(2) a statement that the applicant is in compliance with criteria contained within K.S.A. 2014 Supp. 75-7c04, and amendments thereto;

(3) a statement that the applicant has been furnished a copy of this act and is knowledgeable of its provisions;

(4) a conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution under K.S.A. 2014 Supp. 21-5903, and amendments thereto; and

(5) a statement that the applicant desires a concealed handgun license as a means of lawful self-defense.

(b) The applicant shall submit to the sheriff of the county where the applicant resides, during any normal business hours:

(1) A completed application described in subsection (a);

(2) a nonrefundable license fee of \$132.50, if the applicant has not previously been issued a statewide license or if the applicant's license has permanently expired, which fee shall be in the form of two cashier's checks, personal checks or money orders of \$32.50 payable to the sheriff of the county where the applicant resides and \$100 payable to the attorney general;

(3) if applicable, a photocopy of the proof of training required by ~~subsection (d) of K.S.A. 2014 Supp. 75-7c03~~ 75-7c04(b)(1), and amendments thereto; and

(4) a full frontal view photograph of the applicant taken within the preceding 30 days.

(c) (1) The sheriff, upon receipt of the items listed in subsection (b) ~~of this section~~, shall provide for the full set of fingerprints of the applicant to be taken and forwarded to the attorney general for purposes of a criminal history records check as provided by subsection (d). In addition, the sheriff shall forward to the attorney general the application and the portion of the original license fee which is payable to the attorney general. The cost of taking such fingerprints shall be included in the portion of the fee retained by the sheriff. Notwithstanding anything in this section to the contrary, an applicant shall not be required to submit fingerprints for a renewal application under K.S.A. 2014 Supp. 75-7c08, and amendments thereto.

(2) The sheriff of the applicant's county of residence or the chief law enforcement officer of any law enforcement agency, at the sheriff's or chief law enforcement officer's discretion, may participate in the process by submitting a voluntary report to the attorney general containing readily discoverable information, corroborated through public records, which, when combined with another enumerated factor, establishes that the applicant poses a significantly greater threat to law enforcement or the public at large than the average citizen. Any such voluntary reporting shall be made within 45 days after the date the sheriff receives the application. Any sheriff or chief law enforcement officer submitting a voluntary report shall not incur any civil or criminal liability as the result of the good faith submission of such report.

(3) 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 which shall be used solely for the purpose of administering this act.

(d) Each applicant shall be subject to a state and national criminal history records check which conforms to applicable federal standards, including an inquiry of the national instant criminal background check system for the purpose of verifying the identity of the applicant and whether the applicant has been convicted of any crime or has been the

subject of any restraining order or any mental health related finding that would disqualify the applicant from holding a license under this act. The attorney general is authorized to use the information obtained from the state or national criminal history record check to determine the applicant's eligibility for such license.

(e) ~~Except as provided in K.S.A. 2014 Supp. 75-7c03, and amendments thereto,~~ Within 90 days after the date of receipt of the items listed in subsection (b), the attorney general shall:

(1) Issue the license and certify the issuance to the department of revenue; or

(2) deny the application based solely on: (A) The report submitted by the sheriff or other chief law enforcement officer under subsection (c)(2) for good cause shown therein; or (B) the ground that the applicant is disqualified under the criteria listed in K.S.A. 2014 Supp. 75-7c04, and amendments thereto. If the attorney general denies the application, the attorney general shall notify the applicant in writing, stating the ground for denial and informing the applicant the opportunity for a hearing pursuant to the Kansas administrative procedure act.

(f) Each person issued a license shall pay to the department of revenue a fee for the cost of the license which shall be in amounts equal to the fee required pursuant to K.S.A. 8-243 and 8-246, and amendments thereto, for replacement of a driver's license.

(g) (1) A person who is a retired law enforcement officer, as defined in K.S.A. 2014 Supp. 21-5111, and amendments thereto, shall be: (A) Required to pay an original license fee as provided in subsection (b)(2), to be forwarded by the sheriff to the attorney general; (B) exempt from the required completion of a handgun safety and training course if such person was certified by the Kansas commission on peace officer's standards and training, or similar body from another jurisdiction, not more than eight years prior to submission of the application; (C) required to pay the license renewal fee; (D) required to pay to the department of revenue the fees required by subsection (f); and (E) required to comply with the criminal history records check requirement of this section.

(2) Proof of retirement as a law enforcement officer shall be required and provided to the attorney general in the form of a letter from the agency head, or their designee, of the officer's retiring agency that attests to the officer having retired in good standing from that agency as a law enforcement officer for reasons other than mental instability and that the officer has a nonforfeitable right to benefits under a retirement plan of the agency.

(h) A person who is a corrections officer, a parole officer or a corrections officer employed by the federal bureau of prisons, as defined by K.S.A. 75-5202, and amendments thereto, shall be: (1) Required to pay an original license fee as provided in subsection (b)(2); (2) exempt from the required completion of a handgun safety and training course if such

person was issued a certificate of firearms training by the department of corrections or the federal bureau of prisons or similar body not more than one year prior to submission of the application; (3) required to pay the license renewal fee; (4) required to pay to the department of revenue the fees required by subsection (f); and (5) required to comply with the criminal history records check requirement of this section.

Sec. 11. K.S.A. 2014 Supp. 75-7c10 is hereby amended to read as follows: 75-7c10. Subject to the provisions of K.S.A. 2014 Supp. 75-7c20, and amendments thereto:

(a) ~~Provided that the building is conspicuously posted in accordance with rules and regulations adopted by the attorney general as a building where carrying a concealed handgun is prohibited, no license issued pursuant to or recognized by this act shall authorize the licensee to carry a concealed handgun into any building.~~ *The carrying of a concealed handgun shall not be prohibited in any building unless such building is conspicuously posted in accordance with rules and regulations adopted by the attorney general.*

(b) Nothing in this act shall be construed to prevent:

(1) Any public or private employer from restricting or prohibiting by personnel policies persons ~~licensed under this act~~ from carrying a concealed handgun while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer, except that no employer may prohibit possession of a handgun in a private means of conveyance, even if parked on the employer's premises; or

(2) any private business or city, county or political subdivision from restricting or prohibiting persons ~~licensed or recognized under this act~~ from carrying a concealed handgun within a building or buildings of such entity, provided that the building is posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection ~~(h)~~ (i), as a building where carrying a concealed handgun is prohibited.

(c) (1) Any private entity which provides adequate security measures in a private building and which conspicuously posts signage in accordance with this section prohibiting the carrying of a concealed handgun in such building ~~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~~ *carrying* a concealed handgun concerning acts or omissions regarding such handguns.

(2) Any private entity which does not provide adequate security measures in a private 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~~ *carrying* a concealed handgun concerning acts or omissions regarding such handguns.

(3) Nothing in this act shall be deemed to increase the liability of any

private entity where liability would have existed under the personal and family protection act prior to the effective date of this act.

(d) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may permit any employee, ~~who is licensed to carry a concealed handgun as authorized by the provisions of K.S.A. 2014 Supp. 75-7c01 et seq., and amendments thereto,~~ to carry a concealed handgun in any building of such institution, if the employee meets such institution's own policy requirements regardless of whether such building is conspicuously posted in accordance with the provisions of this section:

- (1) A unified school district;
- (2) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto;
- (3) a state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;
- (4) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;
- (5) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; or
- (6) an indigent health care clinic, as defined by K.S.A. 2014 Supp. 65-7402, and amendments thereto.

(e) (1) It shall be a violation of this section to carry a concealed handgun in violation of any restriction or prohibition allowed by subsection (a) or (b) if the building is posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection ~~(4)~~ (i). 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.

(2) Notwithstanding the provisions of subsection (a) or (b), it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a handgun within any of the buildings described in subsection (a) or (b), subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. ~~The provisions of this paragraph shall not apply to any person who is not in compliance with K.S.A. 2014 Supp. 75-7c19, and amendments thereto.~~

(3) Notwithstanding the provisions of subsection (a) or (b), it is not a violation of this section for a law enforcement officer, as that term is defined in K.S.A. 2014 Supp. 75-7c22, and amendments thereto, who satisfies the requirements of either ~~subsection (a) or (b) of K.S.A. 2014 Supp. 75-7c22(a) or (b),~~ and amendments thereto, to possess a handgun

within any of the buildings described in subsection (a) or (b), subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district.

(f) On and after July 1, 2014, ~~provided that the provisions of K.S.A. 2014 Supp. 75-7c21, and amendments thereto, are in full force and effect,~~ the provisions of this section shall not apply to the carrying of a concealed handgun in the state capitol.

(g) For the purposes of this section:

(1) “Adequate security measures” shall have the same meaning as the term is defined in K.S.A. 2014 Supp. 75-7c20, and amendments thereto;

(2) “building” shall not include any structure, or any area of any structure, designated for the parking of motor vehicles.

(h) Nothing in this act shall be construed to authorize the carrying or possession of a handgun where prohibited by federal law.

(i) 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 a concealed handgun is prohibited pursuant to subsections (a) and (b). Such regulations shall prescribe, at a minimum, that:

(1) The signs be posted at all exterior entrances to the prohibited buildings;

(2) 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;

(3) the signs not be obstructed or altered in any way; and

(4) signs which become illegible for any reason be immediately replaced.

Sec. 12. K.S.A. 2014 Supp. 75-7c17 is hereby amended to read as follows: 75-7c17. (a) The legislature finds as a matter of public policy and fact that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed handguns for self-defense and finds it necessary to occupy the field of regulation of the bearing of concealed handguns for self-defense to ensure that no honest, law-abiding person who qualifies under the provisions of this act is subjectively or arbitrarily denied the person’s rights. No city, county or other political subdivision of this state shall regulate, restrict or prohibit the carrying of concealed handguns by ~~persons licensed under this act~~ *individuals* except as provided in K.S.A. 2014 Supp. 21-6301, 21-6302, 21-6304, 21-6309, 75-7c10 or 75-7c20, and amendments thereto, ~~and in subsection (b) of K.S.A. 2014 Supp. 75-7c10, and amendments thereto, and subsection (f) of or K.S.A. 21-4218(f), prior to its repeal, or subsection (e) of K.S.A. 2014 Supp. 21-6309, and amendments thereto.~~ Any existing or future law, ordinance, rule, regulation or resolution enacted by any city, county or other political subdivision of this state that regulates, restricts or prohibits the carrying of concealed handguns by ~~persons licensed under this act~~ *individuals*

except as provided in K.S.A. 2014 Supp. 21-6301, 21-6302, 21-6304, 21-6309, 75-7c10 or 75-7c20, and amendments thereto, ~~and in subsection (b) of K.S.A. 2014 Supp. 75-7c10, and amendments thereto, and subsection (f) of or K.S.A. 21-4218(f), prior to its repeal, or subsection (c) of K.S.A. 2014 Supp. 21-6309, and amendments thereto,~~ shall be null and void.

(b) Prosecution of any person ~~licensed~~ under the personal and family protection act, and amendments thereto, ~~for violating any restrictions on licensees will~~ shall be done through the district court.

(c) The legislature does not delegate to the attorney general the authority to regulate or restrict the issuing of licenses provided for in this act, beyond those provisions of this act pertaining to licensing and training. Subjective or arbitrary actions or rules and regulations which encumber the issuing process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in this act or which create restrictions beyond those specified in this act are in conflict with the intent of this act and are prohibited.

(d) This act shall be liberally construed. This act is supplemental and additional to existing constitutional rights to bear arms and nothing in this act shall impair or diminish such rights.

Sec. 13. K.S.A. 2014 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. 2014 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 a~~ 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. 2014 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

uously posted in accordance with K.S.A. 2014 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. 2014 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~~ *carrying* 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~~ *carrying* 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 *only* 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. 2014 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) Nothing in this section shall be construed to prohibit any law enforcement officer, as defined in K.S.A. 2014 Supp. 75-7c22, and amendments thereto, who satisfies the requirements of either ~~subsection (a) or (b) of~~ K.S.A. 2014 Supp. 75-7c22(a) or (b), and amendments thereto, from carrying a concealed handgun into any state or municipal building in accordance with the provisions of K.S.A. 2014 Supp. 75-7c22, and amendments thereto, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district.

(m) 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. 2014 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. 2014 Supp. 21-6301, and amendments thereto, except the term “weapon” shall not include any cutting instrument that has a sharpened or pointed blade.

(n) This section shall be a part of and supplemental to the personal and family protection act.

Sec. 14. K.S.A. 2014 Supp. 75-7c21 is hereby amended to read as follows: 75-7c21. (a) ~~A license issued under K.S.A. 2014 Supp. 75-7c01 et seq., and amendments thereto, shall authorize the licensee to~~ *An individual may carry a concealed handgun in the state capitol in accordance with the provisions of K.S.A. 2014 Supp. 75-7c01 et seq., and amendments thereto, provided such individual is not prohibited from possessing a firearm under either federal or state law.*

(b) ~~The provisions of this section shall take effect and be in force from and after July 1, 2014, unless the legislative coordinating council determines that on July 1, 2014, the state capitol does have adequate security measures, as that term is defined in K.S.A. 2014 Supp. 75-7c20, and amendments thereto, to ensure that no weapons are permitted to be carried into the state capitol. Such determination shall be made on or after June 1, 2014, but no later than July 1, 2014.~~

(e) ~~This section shall be a part of and supplemental to the personal and family protection act.~~

Sec. 15. K.S.A. 2014 Supp. 21-5914, 21-6301, 21-6302, 21-6308, 21-6309, 32-1002, 75-7c01, 75-7c03, 75-7c04, 75-7c05, 75-7c10, 75-7c17, 75-7c19, 75-7c20 and 75-7c21 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 2, 2015.

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## CHAPTER 17

## SENATE BILL No. 8

AN ACT concerning school district performance audits; amending K.S.A. 2014 Supp. 46-1226 and repealing the existing section; also repealing K.S.A. 2014 Supp. 46-1130 and 46-1132.

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

Section 1. K.S.A. 2014 Supp. 46-1226 is hereby amended to read as follows: 46-1226. (a) Any cost study analysis, audit or other study commissioned or funded by the legislature and any conclusions or recommendations thereof shall not be binding upon the legislature. The legislature may reject, at any time, any such analysis, audit or study and any conclusions and recommendations thereof.

(b) A cost study analysis, audit or study shall include, but not be limited to, any cost study analysis, audit or study conducted pursuant to K.S.A. 46-1225, prior to its repeal, K.S.A. 2007 Supp. 46-1131, prior to its repeal, and K.S.A. 2014 Supp. 46-1132, ~~and amendments thereto~~ prior to its repeal.

Sec. 2. K.S.A. 2014 Supp. 46-1130, 46-1132 and 46-1226 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 6, 2015.

## CHAPTER 18

## SENATE BILL No. 76°

AN ACT concerning insurance; relating to assessments; enacting the risk management and own risk and solvency assessment act; sanctions.

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

Section 1. (a) This act shall be known and may be cited as the risk management and own risk and solvency assessment act.

(b) The risk management and own risk and solvency assessment act provides the requirements for maintaining a risk management framework and completing an own risk and solvency assessment (ORSA) summary report with the insurance commissioner of the state of Kansas. The requirements of the act shall apply to all insurers domiciled in the state of Kansas unless exempted pursuant to section 6, and amendments thereto.

(c) The risk management and own risk and solvency assessment act and the ORSA summary report will contain confidential and sensitive

information related to an insurer or insurance group's identification of risks material and relevant to the insurer or insurance group filing the report. This information will include proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. The ORSA summary report shall be a confidential document filed with the commissioner and shall only be shared as stated herein and to assist the commissioner in the performance of the commissioner's duties. In no event shall the ORSA summary report be subject to public disclosure.

Sec. 2. As used in this act:

(a) "Act" means the risk management and own risk and solvency assessment act.

(b) "Commissioner" means the state commissioner of insurance.

(c) "Insurance group" means those insurers and affiliates included within an insurance holding company system as defined in K.S.A. 40-3302, and amendments thereto.

(d) "Insurer" has the meaning ascribed to it in K.S.A. 40-3302, and amendments thereto, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

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

(f) "Own risk and solvency assessment" or "ORSA" means a confidential internal assessment, appropriate to the nature, scale and complexity of an insurer or insurance group, conducted by that insurer or insurance group of the material and relevant risks associated with the insurer or insurance group's current business plan and the sufficiency of capital resources to support those risks.

(g) "ORSA guidance manual" means the current version of the own risk and solvency assessment guidance manual developed and adopted by the NAIC, as in effect on January 1, 2017.

(h) "ORSA summary report" means a confidential high-level summary of an insurer or insurance group's ORSA.

Sec. 3. An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing and reporting on its material and relevant risks. This requirement may be satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

Sec. 4. Subject to section 6, and amendments thereto, an insurer or the insurance group of which the insurer is a member shall regularly conduct an ORSA consistent with a process comparable to the ORSA guidance manual. The ORSA shall be conducted no less than annually,

but also at any time when there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

Sec. 5. (a) Upon the commissioner's request, and no more than once each year, an insurer shall submit to the commissioner an ORSA summary report or any combination of reports that together contain the information described in the ORSA guidance manual, applicable to the insurer and the insurance group of which it is a member. Notwithstanding any request from the commissioner, if the insurer is a member of an insurance group, the insurer shall submit the reports required by this subsection if the commissioner is the lead state commissioner of the insurance group as determined by the procedures within the financial analysis handbook adopted by the NAIC.

(b) The reports shall include a signature of the insurer or insurance group's chief risk officer or other executive having responsibility for the oversight of the insurer's enterprise risk management process attesting to the best of such person's belief and knowledge that the insurer applies the enterprise risk management process described in the ORSA summary report and that a copy of the report has been provided to the insurer's board of directors or appropriate committee thereof.

(c) An insurer may comply with subsection (a) by providing the most recent and substantially similar reports provided by the insurer or another member of an insurance group of which the insurer is a member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the ORSA guidance manual. Any such report in a language other than English must be accompanied by a translation of that report into the English language.

(d) The ORSA summary report shall be prepared consistent with the ORSA guidance manual, subject to the requirements of subsection (e). Documentation and supporting information shall be maintained and made available upon examination or upon request of the commissioner.

(e) The review of the ORSA summary report and any additional requests for information shall be made using similar procedures currently used in the analysis and examination of multi-state or global insurers and insurance groups.

Sec. 6. (a) An insurer shall be exempt from the requirements of this act if:

(1) The insurer has annual written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the federal crop insurance corporation and federal flood program, less than \$500,000,000; and

(2) The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with

the federal crop insurance corporation and federal flood program, less than \$1,000,000,000.

(b) If an insurer qualifies for exemption pursuant to subsection (a)(1), but the insurance group of which the insurer is a member does not qualify for exemption pursuant to subsection (a)(2), then the ORSA summary report that may be required pursuant to section 5, and amendments thereto, shall include every insurer within the insurance group. This requirement may be satisfied by the submission of more than one ORSA summary report for any combination of insurers provided any combination of reports includes every insurer within the insurance group.

(c) If an insurer does not qualify for exemption pursuant to subsection (a)(1), but the insurance group of which it is a member qualifies for exemption pursuant to subsection (a)(2), then the only ORSA summary report that may be required pursuant to section 5, and amendments thereto, shall be the report applicable to that insurer.

(d) An insurer that does not qualify for exemption pursuant to subsection (a) may apply to the commissioner for a waiver from the requirements of this act based upon unique circumstances. In deciding whether to grant the insurer's request for waiver, the commissioner may consider the type and volume of business written, ownership and organizational structure and any other factor the commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

(e) Notwithstanding the exemptions stated in this section:

(1) The commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA summary report based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests and international supervisor requests.

(2) The commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA summary report if the insurer has risk-based capital for a company action level event as set forth in K.S.A. 40-2c01 et seq., and K.S.A. 40-2d01 et seq., and amendments thereto, meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in K.A.R. 40-1-38, or otherwise exhibits qualities of a troubled insurer as determined by the commissioner.

(f) If an insurer that qualifies for an exemption pursuant to subsection (a) subsequently no longer qualifies for that exemption due to changes in premium as reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer shall have one year

following the year the threshold is exceeded to comply with the requirements of this act.

Sec. 7. (a) Documents, materials or other information, including the ORSA summary report, in the possession or control of the department of insurance that are obtained or created by or disclosed to the commissioner or any other person under this act, are recognized by this state as being proprietary and to contain trade secrets. All such documents, materials, or other information shall be confidential by law and privileged; shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto; and shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer.

(b) Neither the commissioner nor any person who received documents, materials or other ORSA-related information, through examination or otherwise while acting under the authority of the commissioner, or with whom such documents, materials or other information are shared pursuant to this act, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (a).

(c) In order to assist in the performance of the commissioner's regulatory duties, the commissioner:

(1) May, upon request, share documents, materials or other ORSA-related information, including the confidential and privileged documents, materials or information subject to subsection (a), including proprietary and trade secret documents and materials with other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in K.S.A. 40-3316, and amendments thereto, the NAIC and with any third-party consultants designated by the commissioner, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;

(2) may receive documents, materials or other ORSA-related information, including otherwise confidential and privileged documents, materials or information, including proprietary and trade secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college as defined in K.S.A. 40-3316, and amendments thereto, and the NAIC, and shall maintain as confidential or privileged any documents, materials or information received with notice or the understanding that it is confidential or privi-

leged under the laws of the jurisdiction that is the source of the document, material or information; and

(3) shall enter into a written agreement with the NAIC or a third-party consultant governing sharing and use of information provided pursuant to this act, consistent with this subsection that shall:

(A) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC or a third-party consultant pursuant to this act, including procedures and protocols for sharing by the NAIC with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;

(B) specify that ownership of information shared with the NAIC or a third-party consultant pursuant to this act remains with the commissioner and use of the information by the NAIC or a third-party consultant is subject to the direction of the commissioner;

(C) prohibit the NAIC or third-party consultant from storing the information shared pursuant to this act in a permanent database after the underlying analysis is completed;

(D) require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or a third-party consultant pursuant to this act is subject to a request or subpoena to the NAIC or a third-party consultant for disclosure or production;

(E) require the NAIC or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this act; and

(F) in the case of an agreement involving a third-party consultant, provide for the insurer's written consent.

(d) The sharing of information and documents by the commissioner pursuant to this act shall not constitute a delegation of regulatory authority or rulemaking and the commissioner is solely responsible for the administration, execution and enforcement of the provisions of this act.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade secret materials or other ORSA-related information shall occur as a result of disclosure of such ORSA-related information or documents to the commissioner under this section or as a result of sharing as authorized in this act.

(f) Documents, materials or other information in the possession or control of the NAIC or third-party consultants pursuant to this act shall be confidential by law and privileged, shall not be subject to subpoena

and shall not be subject to discovery or admissible as evidence in any private civil action.

Sec. 8. Any insurer failing, without just cause, to timely file the ORSA summary report as required in this act shall be required, after notice and hearing, to pay a penalty for each day's delay, to be recovered by the commissioner. The penalty so recovered shall be paid into the state general revenue fund. The maximum penalty under this section is \$50,000. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

Sec. 9. If any provision of this act, or the application thereof to any person or circumstance is held invalid, such determination shall not affect the provisions or applications of this act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

Sec. 10. The first filing of the ORSA summary report shall be in 2017 pursuant to section 5, and amendments thereto, of this act.

Sec. 11. The provisions of this act shall expire on July 1, 2022, unless the legislature reviews and reenacts the provisions related to confidentiality in section 1 and section 7, and amendments thereto, pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

Sec. 12. This act shall take effect and be in force from and after January 1, 2017, and its publication in the statute book.

Approved April 6, 2015.

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## CHAPTER 19

### SENATE BILL No. 120

AN ACT concerning wildlife, parks and tourism; relating to land purchases; amending K.S.A. 2014 Supp. 32-833 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 32-833 is hereby amended to read as follows: 32-833. (a) (1) Notwithstanding the provisions of ~~subsection (f)~~ of K.S.A. 32-807(f), and amendments thereto, or any other provisions of law to the contrary, the secretary of wildlife, parks and tourism shall not purchase any land unless:

(A) The secretary of wildlife, parks and tourism has certified that the land proposed to be purchased is in compliance with the provisions of article 13 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, concerning control and management of noxious weeds after consultation with the county weed supervisor and has developed a written

plan for controlling and managing noxious weeds on the land to be purchased;

(B) the secretary of wildlife, parks and tourism shall agree to make payment of moneys in lieu of taxes comparable to the ad valorem tax payments of surrounding lands for any land purchased which is exempt from the payment of ad valorem taxes under the laws of the state of Kansas; and

(C) the secretary of wildlife, parks and tourism has developed a management plan for the property proposed to be purchased.

(2) In addition to the requirements prescribed by this section and otherwise by law, any proposed purchase of a tract or tracts of land which are greater than ~~320~~ 160 acres in the aggregate shall be subject to approval by act of the legislature, either as a provision in an appropriation act pertaining to the specific property to be purchased or by any other act of the legislature that approves the acquisition of the specific property proposed to be purchased, or by approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in ~~subsection (e)~~ of K.S.A. 75-3711c(c), and amendments thereto.

(3) The provisions of this subsection shall not apply to any purchase of land by the secretary, which is less than 640 acres in the aggregate and owned by a private individual, if the purchase price is an amount less than such land's appraised valuation.

(b) (1) Notwithstanding the provisions of ~~subsection (f)~~ of K.S.A. 32-807(f), and amendments thereto, or any other provisions of law to the contrary, the secretary of wildlife, parks and tourism shall adopt guidelines and procedures prescribing public notice requirements that the secretary shall comply with before the selling of any land which shall include, but not be limited to, the following:

(A) A written notice shall be posted in a conspicuous location on such land stating the time and date of the sale, or the date after which the land will be offered for sale, and a name and telephone number of a person who may be contacted concerning the sale of such land;

(B) the secretary shall cause to be published in a newspaper of general circulation in the county the land is located once a week for three consecutive weeks, the secretary's intent to sell the land which shall include a legal description of the land to be sold, the time and date of the sale or the date after which the land will be offered for sale, the general terms and conditions of such sale, and a name and telephone number of a person who may be contacted concerning the sale of such land; and

(C) the secretary shall publish in the Kansas register public notice of the secretary's intent to sell the land which shall include a legal description of the land to be sold, the time and date of the sale or the date after which the land will be offered for sale, the place of the sale, the general

terms and conditions of such sale, and a name and telephone number of a person who may be contacted concerning the sale of such land.

(2) The secretary shall have the land appraised by three disinterested persons. In no case shall such land be sold for less than the average of its appraised value as determined by such disinterested persons.

(3) The secretary shall list such land with a real estate agent who is licensed by the Kansas real estate commission as a salesperson under the real estate brokers' and salespersons' license act, and who shall publicly advertise that such land is for sale.

(4) Prior to closing the transaction on a contract for the sale of such land, the secretary shall cause a survey to be conducted by a licensed land surveyor. Such survey shall establish the precise legal description of such land and shall be a condition precedent to the final closing on such sale.

(c) Any disposition of land by the secretary shall be in the best interest of the state.

(d) *The provisions of paragraph (a)(2) shall not apply to lands of less than 640 acres purchased with natural resource damage and restoration funds in the southeast Kansas counties of Cherokee, Crawford, Labette and Neosho.*

Sec. 2. K.S.A. 2014 Supp. 32-833 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 6, 2015.

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## CHAPTER 20

### SENATE BILL No. 252

AN ACT concerning crimes and punishment; relating to unlawful abuse of toxic vapors; amending K.S.A. 2014 Supp. 21-5712 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 21-5712 is hereby amended to read as follows: 21-5712. (a) Unlawful abuse of toxic vapors is possessing, buying, using, smelling or inhaling toxic vapors with the intent of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system.

(b) Unlawful abuse of toxic vapors is a class B nonperson misdemeanor.

(c) In addition to any sentence or fine imposed, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program, treatment

program or both such programs as provided in K.S.A. 8-1008, and amendments thereto.

(d) This section shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

(e) For the purposes of this section, the term “toxic vapors” means vapors from the following substances or products containing such substances:

- (1) Alcohols, including methyl, isopropyl, propyl or butyl;
- (2) aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate;
- (3) acetone;
- (4) benzene;
- (5) carbon tetrachloride;
- (6) cyclohexane;
- (7) freons, including freon 11~~and~~, freon 12 *and other halogenated hydrocarbons*;
- (8) hexane;
- (9) methyl ethyl ketone;
- (10) methyl isobutyl ketone;
- (11) naphtha;
- (12) perchlorethylene;
- (13) toluene;
- (14) trichloroethane; or
- (15) xylene.

(f) In a prosecution for a violation of this section, evidence that a container lists one or more of the substances described in subsection (e) as one of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors.

Sec. 2. K.S.A. 2014 Supp. 21-5712 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 6, 2015.

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## CHAPTER 21

## SENATE BILL No. 108

AN ACT concerning real estate brokers and salespersons; relating to license fees; licensure; technical amendments; amending K.S.A. 58-30,106 and K.S.A. 2014 Supp. 58-3046a, 58-3050, 58-3062, 58-3063 and 58-30,103 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 58-3046a is hereby amended to read as follows: 58-3046a. (a) Except as provided in K.S.A. 58-3040, and amendments thereto, any person who applies for an original license in this state as a salesperson shall submit evidence, satisfactory to the commission, of attendance of a principles of real estate course, of not less than 30 hours of instruction, approved by the commission and received within the 12 months immediately preceding the filing of application for salesperson's license. The commission may require the evidence to be furnished to the commission with the original application for license or it may require the applicant to furnish the evidence to the testing service designated by the commission as a prerequisite to taking the examination required by K.S.A. 58-3039, and amendments thereto. If the evidence is furnished to the testing service, the instruction shall have been received within 12 months immediately preceding the date of the examination.

(b) Except as provided in K.S.A. 58-3040, and amendments thereto, any person who applies for an original license in this state as a broker shall submit evidence, satisfactory to the commission, of attendance of 24 hours of instruction, approved by the commission and received within the 12 months immediately preceding the filing of application for broker's license. Such hours shall be in addition to any hours of instruction used to meet the requirements of subsection (c), (d), (e) or (f). The commission may require the evidence to be furnished to the commission with the original application for license, or it may require the applicant to furnish the evidence to the testing service designated by the commission as a prerequisite to taking the examination provided in K.S.A. 58-3039, and amendments thereto. If the evidence is furnished to the testing service, the instruction shall have been received within 12 months immediately preceding the date of the examination.

(c) Any person who applies for an original license in this state as a salesperson on or after July 1, 2007, shall submit evidence, satisfactory to the commission, of attendance of a Kansas real estate practice course, of not less than 30 hours of instruction, approved by the commission and received within the six months immediately preceding the filing of the application for licensure.

(d) Any person who applies for an original license in this state as a broker on or after July 1, 2007, who is a nonresident of Kansas or who is a resident of Kansas applying for licensure pursuant to ~~subsection (c) of~~ K.S.A. 58-3040(e), and amendments thereto, shall submit evidence, sat-

isfatory to the commission, of attendance of a Kansas real estate course, of not less than four hours of instruction and received within the six months immediately preceding the filing of the application for licensure. Such course shall be approved by the commission and shall be specific to Kansas law with primary emphasis on issues that arise under the brokerage relationships in real estate transactions act, K.S.A. 58-30,101 et seq., and amendments thereto, and rules or regulations adopted thereunder.

(e) At or prior to each renewal date established by the commission, any person who is licensed in this state as a broker or as a salesperson shall submit evidence, satisfactory to the commission, of attendance of not less than 12 hours of ~~additional instruction~~ *continuing education* approved by the commission and received during the renewal period.

(f) Any person who obtains a temporary license in this state as a salesperson prior to July 1, 2007, shall submit evidence, satisfactory to the commission, of attendance of courses of instruction approved by the commission as follows:

(1) No later than ten days prior to the expiration date of the temporary license, 30 hours of instruction received after the date of licensure.

(2) At or prior to the first renewal of a license issued pursuant to K.S.A. 58-3039, and amendments thereto, 12 hours of ~~additional instruction~~ *continuing education* received during the renewal period. Such evidence shall not be required until the second license renewal if the license expires less than six months after issuance.

(3) At or prior to each license renewal thereafter, 12 hours of ~~additional instruction~~ *continuing education* received during the renewal period.

(g) Any person who qualifies for original licensure as a salesperson pursuant to K.S.A. 58-3039, and amendments thereto, on or after July 1, 2007, shall not be required to comply with subsection (e) until the second license renewal period if the license expires less than six months after it is issued.

(h) Except for courses reviewed pursuant to subsection (k), courses of instruction required by this section shall be courses approved by the commission and offered by:

(1) An institution which is accredited by the north central association of colleges and secondary schools accrediting agency;

(2) ~~an area vocational or vocational-technical school~~ *a technical college* as defined by K.S.A. 72-4412, and amendments thereto;

(3) a private or out-of-state postsecondary educational institution which has been issued a certificate of approval pursuant to the Kansas private and out-of-state postsecondary educational institution act;

(4) any agency of the state of Kansas; ~~or~~

(5) a similar institution, approved by the commission, in another state;

*or*

(6) *an entity, approved by the commission, to provide continuing education.*

(i) The commission shall adopt rules and regulations to: (1) Prescribe minimum curricula and standards for all courses offered to fulfill education requirements of this act; (2) designate a course of study to fulfill any specific requirement, which may include a testing requirement; (3) prescribe minimum qualifications for instructors of approved courses; and (4) establish standards and procedures for approval of courses and instructors, monitoring courses, advertising, registration and maintenance of records of courses, and withdrawal of approval of courses and instructors.

(j) The commission may approve distance education courses consisting solely or primarily of instruction provided online or in other computer-assisted formats, or by correspondence, audiotape, videotape or other media. For the purposes of this section, attendance of one hour of instruction shall mean 50 minutes of classroom instruction or the equivalent thereof in distance education study as determined by the commission.

(k) Courses of instruction required by this section shall be courses approved by the commission either before or after their completion. The commission may give credit toward the 12 hours of ~~additional instruction~~ *continuing education* required by subsection (e) or (f) to any licensee who submits an application for course review obtained from the commission and pays the fee prescribed by K.S.A. 58-3063, and amendments thereto, if, in the judgment of the commission, the course meets the objectives of continuing education.

(l) The commission shall publish annually a list of educational institutions and entities and the courses offered by them in this state which are approved by the commission.

(m) No license shall be issued or renewed unless the applicable requirements set forth in this section are met within the time prescribed.

Sec. 2. K.S.A. 2014 Supp. 58-3050 is hereby amended to read as follows: 58-3050. (a) Except as provided in subsection (b) and (c), the commission may refuse to grant or renew a license and the license of any licensee may be revoked, suspended, conditioned or restricted or a licensee may be censured, if:

(1) The licensee *or applicant* has committed a violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder;

(2) the licensee *or applicant* has entered a plea of guilty or nolo contendere to, or has been convicted of any misdemeanor which reflects on the licensee's *or applicant's* honesty, trustworthiness, integrity or competence to transact the business of real estate;

(3) the licensee *or applicant* has been finally adjudicated and found

to be guilty of violation of the federal fair housing act (42 U.S.C. § 3601 et seq.) or K.S.A. 44-1015 through 44-1029, and amendments thereto;

(4) the licensee *or applicant* has obtained or reinstated, or attempted to obtain or reinstate, a license by false or fraudulent representation;

(5) the licensee *or applicant* has violated any lawful order or directive of the commission; or

(6) the licensee *or applicant* has committed a violation in another state and disciplinary action taken against such licensee *or applicant* resulted in the suspension, probation or revocation of such licensee's *or applicant's* real estate license in such other state.

(b) Except as provided in subsection (c), the commission shall suspend or revoke the license of any licensee who has entered a plea of guilty or nolo contendere to, or has been convicted of any felony.

(c) The provisions of subsection (b) shall not apply to any person who:

(1) Is currently licensed under this act;

(2) has entered a plea of guilty or nolo contendere to, or has been convicted of any offense specified in subsection (b); and

(3) has disclosed such plea or conviction in such person's application for any license or renewal thereof on or before July 1, 2007, prior to the commission's action on such application.

(d) (1) In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, the commission, in accordance with the Kansas administrative procedure act and upon a finding that a licensee has violated a provision of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, may impose on such licensee a civil fine not exceeding \$1,000 for each violation.

(2) A civil fine not exceeding \$5,000 per violation may be imposed if the commission makes specific findings that aggravating circumstances exist and that the licensee:

(A) Misappropriated funds belonging to another person;

(B) engaged in fraud or made any substantial misrepresentation;

(C) represented to a lender, guaranteeing agency or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(D) committed forgery or signed or initialed a contractual agreement on behalf of another person in a real estate transaction unless authorized to do so by a duly executed power of attorney; or

(E) intentionally failed to disclose to a client or customer all adverse material facts actually known by the licensee regarding environmental hazards affecting the property that are required by law to be disclosed, the physical condition of the property, material defects in the real property, defects in the title to the real property or the client's or customer's ability to perform under the terms of the agreement.

(e) For the purposes of subsection (d), the term “aggravating circumstances” means:

(1) The licensee’s conduct involved fraud or deceit; and

(2) (A) the licensee’s conduct directly resulted in substantial loss or created a significant risk of substantial loss to a customer or client; or

(B) the licensee’s conduct resulted in substantial financial gain to the licensee; or

(C) the licensee has a history of prior disciplinary actions involving violations similar to the violations described in subsection (d)(2).

(f) In all matters pending before the commission, the commission shall have the power to revoke the license of any licensee who voluntarily surrenders such licensee’s license or who does not renew such license pending investigation of misconduct or while charges of misconduct are pending or anticipated.

(g) If a broker or salesperson has been declared incompetent by a court of competent jurisdiction, the commission shall suspend the broker’s or salesperson’s license for the period of disability.

(h) (1) Except as provided by paragraph (2) of this subsection, no complaint alleging violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, shall be commenced more than three years from the date of the occurrence which is the subject of the complaint.

(2) Unless the violation is not reasonably ascertainable, complaints alleging violation of subsection (a)(4) or (a)(5) shall be commenced within three years from the date of the occurrence of the violation. If the violation is not reasonably ascertainable, complaints alleging violation of subsection (a)(4) or (a)(5) shall be commenced within three years from the date of violation is ascertained by the commission.

(i) All administrative proceedings pursuant to this section shall be conducted in accordance with the Kansas administrative procedure act.

(j) Notwithstanding any provision of this act or the brokerage relationships in real estate transactions act to the contrary, the commission may use emergency adjudicative proceedings, as provided by K.S.A. 77-536, and amendments thereto, to summarily suspend the license of any licensee if the commission has reasonable cause to believe that the licensee’s trust account is in unsound condition or that the licensee is misappropriating funds belonging to other persons.

(k) If a licensee has entered a plea of guilty or nolo contendere to, or has been convicted of, any felony charge, the commission may use emergency adjudicative proceedings, as provided by K.S.A. 77-536, and amendments thereto, to suspend or revoke the licensee’s license.

(l) When the real estate license of an individual is revoked and that individual’s name is included in the trade or business name of a real estate brokerage business, the commission may deny continued use of the trade

or business name if, in the opinion of the commission, it would be confusing or misleading to the public.

(m) The commission shall be authorized to recover from the fine imposed the commission's actual costs to investigate and prosecute a disciplinary case against a licensee, including attorney fees. The portion of the fine amount collected that equals the commission's actual costs related to the investigation and prosecution of the case and attorney fees, as certified by the executive director of the commission to the state treasurer, shall be credited to the real estate commission fee fund. The balance of the fine amount collected shall be credited to the state general fund.

Sec. 3. K.S.A. 2014 Supp. 58-3062 is hereby amended to read as follows: 58-3062. (a) No licensee, whether acting as an agent, transaction broker or a principal, shall:

(1) Fail to account for and remit any money which comes into the licensee's possession and which belongs to others.

(2) Misappropriate moneys required to be deposited in a trust account pursuant to K.S.A. 58-3061, and amendments thereto, convert such moneys to the licensee's personal use or commingle the money or other property of the licensee's principals with the licensee's own money or property, except that nothing herein shall prohibit a broker from having funds in an amount not to exceed \$100 in the broker's trust account to pay expenses for the use and maintenance of such account.

(3) Accept, give or charge any rebate or undisclosed commission.

(4) Pay a referral fee to a person who is properly licensed as a broker or salesperson in Kansas or another jurisdiction or who holds a corporate real estate license in another jurisdiction if the licensee knows that the payment of the referral fee will result in the payment of a rebate by the Kansas or out-of-state licensee.

(5) Represent or attempt to represent a broker without the broker's express knowledge and consent.

(6) Guarantee or authorize any person to guarantee future profits that may result from the resale of real property.

(7) Place a sign on any property offering it for sale or lease without the written consent of the owner or the owner's authorized agent.

(8) Offer real estate for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent.

(9) Induce any party to break any contract of sale or lease.

(10) Pay a commission or compensation to any person, not licensed under this act, for performing any activity for which a license is required under this act.

(11) Fail to see that financial obligations and commitments between the parties to an agreement to sell, exchange or lease real estate are in

writing, expressing the exact agreement of the parties or to provide, within a reasonable time, copies thereof to all parties involved.

(12) Procure a signature to a purchase contract which has no definite purchase price, method of payment, description of property or method of determining the closing date.

(13) Engage in fraud or make any substantial misrepresentation.

(14) Represent to any lender, guaranteeing agency or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon.

(15) Fail to make known to any purchaser or lessee any interest the licensee has in the real estate the licensee is selling or leasing or to make known to any seller or lessor any interest the licensee will have in the real estate the licensee is purchasing or leasing.

(16) Fail to inform both the buyer, at the time an offer is made, and the seller, at the time an offer is presented, that certain closing costs must be paid and the approximate amount of such costs.

(17) Fail without just cause to surrender any document or instrument to the rightful owner.

(18) Accept anything other than cash as earnest money unless that fact is communicated to the owner prior to the owner's acceptance of the offer to purchase, and such fact is shown in the purchase agreement.

(19) Fail to deposit any check or cash received as an earnest money deposit or as a deposit on the purchase of a lot within five business days after the purchase agreement or lot reservation agreement is signed by all parties, unless otherwise specifically provided by written agreement of all parties to the purchase agreement or lot reservation agreement, in which case the licensee shall deposit the check or cash received on the date provided by such written agreement.

(20) Fail to respond in a timely manner to any request from the commission or the commission's designee for documents or information that concerns directly or indirectly any real estate transaction or the licensee's real estate business.

(21) Refuse to appear or testify under oath at any hearing held by the commission.

(22) Demonstrate incompetency to act as a broker, associate broker or salesperson.

(23) Except as provided by K.S.A. 40-2404, and amendments thereto, knowingly receive or accept, directly or indirectly, any rebate, reduction or abatement of any charge, or any special favor or advantage or any monetary consideration or inducement, involving the issuance of a title insurance policy or contract concerning which the licensee is directly or indirectly connected, from a title insurance company or title insurance agent, or any officer, employee, attorney, agent or solicitor thereof.

(24) Engage in the purchase of one-, two-, three- or four-family

dwellings, including condominiums and cooperatives, or the acquisition of any right, title or interest therein, including any equity or redemption interests, if:

(A) (i) At the time of such purchase, the dwellings are subject to a right of redemption pursuant to foreclosure of a mortgage on such dwellings; (ii) the licensee fails to give written notice of the purchase, within 20 days thereafter, to the mortgage holder or judgment creditor who held such mortgage; and (iii) the licensee, unless otherwise required by law or court order, fails to apply any rent proceeds from the dwellings to the judgment lien arising from the foreclosure of such mortgage, as payments become due under the loan, regardless of whether the licensee is obligated to do so;

(B) (i) the dwellings are subject to a loan which is secured by a mortgage and which is in default at the time of such purchase or in default within one year after such purchase; (ii) the licensee fails to give written notice of the purchase, within 20 days thereafter, to the mortgage holder; and (iii) the licensee, unless otherwise required by law or court order, fails to apply any rent proceeds from the dwellings to the mortgage as the payments come due, regardless of whether the licensee is obligated on the loan; or

(C) the licensee fails to notify, at the time of rental, any person renting any such dwelling of the extent and nature of the licensee's interest in such dwelling and the probable time until possession will be taken by the mortgage holder or judgment creditor.

(25) Commit forgery or, unless authorized to do so by a duly executed power of attorney, sign or initial any contractual agreement on behalf of another person in a real estate transaction.

(26) Enter into contracts with persons not licensed by the commission to perform services requiring a license under K.S.A. 58-3034 et seq., and amendments thereto, except as provided by K.S.A. 58-3077, and amendments thereto.

(b) No salesperson or associate broker shall:

(1) Except as provided in subparagraph (A) or (B), accept a commission or other valuable consideration from anyone other than the broker by whom the licensee is employed or with whom the licensee is associated as an independent contractor.

(A) A salesperson or associate broker may accept a commission or other valuable consideration from a licensee who employs the salesperson or associate broker as a personal assistant provided that: (i) The licensee and the salesperson or associate broker who is employed as a personal assistant are licensed under the supervision of the same broker; and (ii) the supervising broker agrees in writing that the personal assistant may be paid by the licensee.

(B) If a salesperson or associate broker has organized as an association, corporation, limited liability company, limited liability partnership,

partnership or professional corporation, the commission or other valuable consideration may be paid by the licensee's broker to such association, corporation, limited liability company, limited liability partnership, partnership or professional corporation. This provision shall not alter any other provisions of this act.

(2) Fail to place, as soon after receipt as practicable, any deposit money or other funds entrusted to the salesperson or associate broker in the custody of the broker whom the salesperson or associate broker represents.

(3) (A) Except as provided by subparagraph (B), be employed by or associated with a licensee at any one time other than the supervising broker who employs such salesperson or associate broker or with who the salesperson or associate broker is associated as an independent contractor.

(B) An associate broker may be employed by or associated with more than one supervising broker at any one time if each supervising broker who employs or associates with the associate broker consents to such multiple employment or association. Such consent shall be on a form provided by the commission and shall not be effective until a signed copy of the completed form has been filed with the commission.

(4) Except as provided by subsection (b), pay a commission or compensation to any person for performing any activity for which a license is required under this act.

(5) (A) Fail to disclose to such salesperson's or associate broker's supervising broker or branch broker that such salesperson or associate broker is performing any activity for which a license is required under K.S.A. 58-3036, and amendments thereto; or (B) perform any activity for which a license is required under K.S.A. 58-3036, and amendments thereto, outside the supervision of the supervising broker or branch broker. The provisions of this subsection shall not apply to any activity or person exempted from the real estate brokers' and salespersons' license act pursuant to K.S.A. 58-3037, and amendments thereto.

(6) Fail to submit to the supervising broker or branch broker, within 10 business days, any document that must be maintained in the supervising broker's or branch broker's business records for each real estate transaction. The ten-day period shall commence when the document is executed by the client or customer or, if a signature is not required or is not obtained, upon presentation of a document to the client or customer.

(c) No broker shall:

(1) Pay a commission or compensation to any person for performing the services of an associate broker or salesperson unless such person is licensed under this act and employed by or associated with the broker.

(2) Fail to deliver to the seller in every real estate transaction, at the time the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by the broker for the seller, or fail to deliver to the buyer a complete statement showing

all money received in the transaction from such buyer and how and for what the same was disbursed, or fail to retain true copies of such statements in the broker's files, except that the furnishing of such statements to the seller and buyer by an escrow agent shall relieve the broker's responsibility to the seller and the buyer.

(3) Fail to properly supervise the activities of an associated or employed salesperson or associate broker.

(4) Lend the broker's license to a salesperson, or permit a salesperson to operate as a broker.

(5) Fail to provide to the principal a written report every 30 days, along with a final report, itemizing disbursements made by the broker from advance listing fees.

(d) (1) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker, no listing broker shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

(2) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker and the property was not listed with a broker, no broker for the buyer shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

(3) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker and neither the seller nor buyer is represented by a broker, no transaction broker shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the

purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

The commission may adopt rules and regulations to require that such purchase agreement which provides that the earnest money be held by an escrow agent other than a real estate broker include: (1) Notification of whether or not the escrow agent named in the purchase agreement maintains a surety bond; and (2) notification that statutes governing the disbursement of earnest money held in trust accounts of real estate brokers do not apply to earnest money deposited with the escrow agent named in the purchase agreement.

(e) No licensee shall:

(1) Threaten to engage in or engage in physical abuse or engage in harassment towards:

(A) A client or customer *or a former client or customer*;

(B) another licensee;

(C) commission members or staff;

(D) staff of the office of administrative hearings;

(E) staff from any real estate trade association or multiple listing service; or

(F) any person from another business or industry whose services are requested or required as part of a real estate transaction;

(2) threaten to file or file a lien on residential property;

(3) conduct real estate business with impaired judgment or objectivity as the result of mental illness or addiction to alcohol or controlled substances;

(4) be finally adjudicated by a federal or state agency and found to be guilty of a violation of a federal or state law regulating the real estate industry or regulating a closely related industry whose licensees or members are commonly involved in real estate matters;

(5) be finally adjudicated by a federal or state agency and found to be guilty of a violation of a federal or state law prohibiting discrimination against any client or customer on the basis of color, race, gender, religion, national origin, age, disability or familial status; or

(6) intentionally misappropriate or misuse any personal property or real property of a client or customer.

(f) *No applicant or licensee shall:*

(1) *Engage in fraud or make any substantial misrepresentation to the commission;*

(2) *commit forgery in any representation or document submitted to the commission;*

(3) *sign or initial, on behalf of another person, any application, for*

*or accompanying document submitted to the commission unless authorized to do so by a duly executed power of attorney;*

*(4) interfere with any investigation, administrative proceeding, quasi-judicial proceeding or any other disciplinary matter of the commission, including, but not limited to:*

*(A) Threatening to engage in or engaging in physical abuse or harassment toward any witness, complainant or individual listed in subsection (e)(1);*

*(B) destroying evidence;*

*(C) refusing or failing to appear or testify under oath at any hearing;*  
*or*

*(D) refusing or failing to respond in a timely manner to any request from the commission or the commission's designee for documents or information that concerns directly or indirectly any real estate transaction or the licensee's real estate business;*

*(5) fail without just cause to surrender any document or instrument to the rightful owner; or*

*(6) demonstrate incompetency to act as a broker, associate broker or salesperson in dealings with the commission, including the repeated failure to:*

*(A) Submit required forms to the commission in a timely and complete manner;*

*(B) make available to the commission all records relating to the real estate business; or*

*(C) comply with the provisions of this subsection.*

*(g)* A branch broker shall not be employed by or associated with more than one supervising broker at any one time unless each supervising broker who employs or associates with the branch broker consents to such multiple employment or association. Such consent shall be on a form provided by the commission and shall not be effective until a signed copy of the completed form has been filed with the commission.

~~*(g)*~~*(h)* Nothing in this section shall be construed to grant any person a private right of action for damages or to eliminate any right of action pursuant to other statutes or common law.

Sec. 4. K.S.A. 2014 Supp. 58-30,103 is hereby amended to read as follows: 58-30,103. (a) Except when acting as a transaction broker or solely as a seller, buyer, landlord or tenant, a broker shall act only as a statutory agent in any real estate transaction. A licensee shall not act as a dual agent or in a dual capacity of agent and undisclosed principal in any transaction.

(b) A broker may work with a single party in separate transactions pursuant to different relationships, including, but not limited to, selling one property as a seller's agent and working with that seller in buying another property as a buyer's agent if the broker complies with this act

in establishing the relationships for each transaction. A broker who has been working with a seller, landlord, buyer or tenant as a transaction broker may act as an agent for the seller, landlord, buyer or tenant if the broker complies with this act in establishing the agency relationship.

(c) A broker may be engaged as a transaction broker by oral or written agreement with the seller, landlord, buyer or tenant. A broker shall be considered a transaction broker unless:

(1) An agency relationship between the broker and the party to be represented is established pursuant to this section; or

(2) a broker works with a buyer or tenant as a subagent of the seller or landlord by accepting an offer of subagency.

(d) (1) Except as provided in subsection (d)(2), a broker intending to establish an agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented prior to the licensee's engaging in any of the activities enumerated in ~~subsection (f) of K.S.A. 58-3035(f)~~, and amendments thereto, as an employee of, or on behalf of, the seller or landlord.

(2) If the real estate which is to be offered for sale is owned by any agency of the federal government, a broker may, on behalf of the owner, engage in activities enumerated in ~~subsection (f) of K.S.A. 58-3035(f)~~, and amendments thereto, after obtaining verbal authorization from the federal agency for which services are to be performed.

(e) To establish an agency relationship with a buyer or tenant, a broker shall enter into a written agency agreement with the party to be represented no later than the signing of an offer to purchase or lease.

(f) An agency agreement or written transaction brokerage agreement shall set forth the terms and conditions of the relationship, including a fixed date of expiration, any limitation on the duty of confidentiality and the terms of compensation, and shall refer to the duties and obligations pursuant to K.S.A. 58-30,106, 58-30,107 or 58-30,113, and amendments thereto. The agreement shall be signed by the party to be represented and by the broker or a licensee affiliated with the broker. A copy of the agreement shall be furnished to the customer or client at the time the customer or client signs the agreement. If, at the time the customer or client signs the agreement, the agreement is not signed by the broker or a licensee affiliated with the broker, the broker or a licensee affiliated with the broker shall furnish a copy of the agreement to the customer or client within a reasonable time after the agreement is signed by the broker or a licensee affiliated with the broker.

(g) An agency agreement with a seller or landlord shall include any potential:

(1) For the seller's agent or landlord's agent to act as a transaction broker;

(2) for an affiliated licensee to act as a designated agent for the buyer

and the designated agent's supervising broker or branch broker, and an affiliated licensee if applicable, to act as a transaction broker; or

(3) for the broker to designate an affiliated licensee to act as the designated agent for the seller on the broker's personal listing pursuant to ~~subsection (b)(2)~~ of K.S.A. 58-30,109(b)(2), and amendments thereto.

(h) An agency agreement with a buyer or tenant shall include any potential:

(1) For the buyer's agent or tenant's agent to act as a transaction broker; or

(2) for an affiliated licensee to act as a designated agent for the seller and the designated agent's supervising broker or branch broker, and an affiliated licensee if applicable, to act as a transaction broker.

(i) An agency agreement or written transaction brokerage agreement shall not contain an authorization for the broker to sign or initial any document on behalf of the broker's customer or client in a real estate transaction or authorization for the broker to act as attorney-in-fact for the customer or client.

(j) An agency agreement or written transaction brokerage agreement with a seller shall not provide that the broker's commission be based on the difference between the gross sales price and the net proceeds to the owner.

(k) The broker shall not assign, sell or otherwise transfer a written agency agreement or written transaction brokerage agreement to another broker without the express written consent of all parties to the original agreement.

(l) A licensee shall not solicit an agency agreement or written transaction brokerage agreement from a seller or landlord if the licensee knows that the seller or landlord has, with regard to the property, an agency agreement or written transaction brokerage agreement granting an exclusive right to sell or exclusive agency to another broker.

(m) A licensee shall not solicit an agency agreement or written transaction brokerage agreement from a buyer or tenant if the licensee knows that the buyer or tenant has a written agency agreement or written transaction brokerage agreement granting an exclusive brokerage relationship to another broker.

(n) A licensee shall not induce any party to break any agency agreement or written transaction brokerage agreement.

(o) If a licensee knows that a buyer or tenant has an agency agreement or written transaction brokerage agreement granting an exclusive brokerage relationship to another broker, the licensee shall not contact the buyer or tenant and shall not initiate negotiations for the sale, exchange or lease of real estate with the buyer or tenant. The licensee may negotiate the sale, exchange or lease of real estate directly with the buyer or tenant with the informed consent of the buyer or tenant. The informed consent shall be evidenced by a consent agreement signed by the buyer or tenant

prior to any such direct negotiation. The consent agreement shall acknowledge the buyer or tenant agency agreement or written transaction brokerage agreement and that the buyer or tenant may be liable for compensation under the terms of the agency agreement or written transaction brokerage agreement. The commission, by rules and regulations, shall adopt a consent agreement to be used by licensees pursuant to this subsection.

(p) A licensee shall not contact the seller or landlord or negotiate a sale, exchange or lease of real estate directly with a seller or landlord if the licensee knows that the seller or landlord has an exclusive agency agreement or exclusive right to sell agreement with another broker. A buyer's or tenant's agent or a subagent may present an offer to the seller or landlord if the ~~seller's or landlord's agent or transaction broker of the seller or landlord~~ is present.

Sec. 5. K.S.A. 58-30,106 is hereby amended to read as follows: 58-30,106. (a) A seller's agent or a landlord's agent shall be a statutory agent with the duty and obligation to:

(1) Perform the terms of the written agreement made with the client;  
(2) promote the interests of the client with the utmost good faith, loyalty and fidelity, including:

(A) presenting in a timely manner all offers to and from the client, when such offer is received prior to the closing of the sale unless the seller instructs the broker in the agency agreement not to submit offers after an offer has been accepted by the seller;

(B) disclosing to the client all adverse material facts actually known by the licensee about the buyer or tenant; and

(C) advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(3) account in a timely manner for all money and property received;  
(4) comply with all requirements of this act and rules and regulations adopted hereunder; and

(5) comply with any applicable federal, state and local laws, rules and regulations and ordinances, including fair housing and civil rights statutes and rules and regulations.

(b) If pursuant to subsection (a)(2)(C), the licensee advised the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee, no cause of action for any person shall arise against the licensee pertaining to such material matters.

(c) A seller's or landlord's agent shall not disclose any confidential information about the client unless disclosure is required by statute or rule and regulation or failure to disclose the information would constitute fraudulent misrepresentation. No cause of action for any person shall arise

against a licensee acting as a seller's or landlord's agent for making any required or permitted disclosure.

(d) (1) A seller's or landlord's agent owes no duty or obligation to a customer, except that a licensee shall disclose to any customer all adverse material facts actually known by the licensee, including, but not limited to:

(A) Any environmental hazards affecting the property which are required by law to be disclosed;

(B) the physical condition of the property;

(C) any material defects in the property;

(D) any material defects in the title to the property; or

(E) any material limitation on the client's ability to perform under the terms of the contract.

(2) A seller's or landlord's agent owes no duty to conduct an independent inspection of the property for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of any statement made by the client or any qualified third party.

(3) Except as provided in subsection (d)(4), a seller's or landlord's agent is not required to disclose to a client or customer information relating to the physical condition of the property if a written report regarding the physical condition of the property has been prepared by a qualified third party and provided to the client or customer.

(4) A seller's or landlord's agent shall disclose to the client or customer any facts actually known by the licensee that were omitted from or contradict any information included in a written report described in subsection (d)(3).

(5) In performing an investigation or inspection and in making a disclosure in connection with a real estate transaction, a licensee shall exercise the degree of care expected to be exercised by a reasonably prudent person who has the knowledge, skills and training required for licensure as a broker or salesperson.

(e) A seller's or landlord's agent may provide assistance to the customer by performing ministerial acts. Performing ministerial acts for the customer shall not be construed as violating the brokerage firm's agency with the seller or landlord and shall not be construed as forming an agency with the customer.

(f) A seller's or landlord's agent may show alternative properties not owned by the client to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the client.

(g) A seller or landlord may agree in writing with a seller's or landlord's agent that the broker may offer subagency and pay compensation to other brokers.

(h) A seller or landlord may agree in writing with a seller's or landlord's agent that the broker may offer to cooperate with a buyer's or

tenant's agent or to cooperate with and pay compensation to a buyer's or tenant's agent.

(i) A seller or landlord may agree in writing with a seller's or landlord's agent that the broker may offer to cooperate with a transaction broker or to cooperate with and pay compensation to a transaction broker.

(j) If the seller or landlord has authorized the broker to offer cooperation with other licensees pursuant to subsection (g), (h) or (i) the broker shall not refuse permission to another licensee to show a listed property or refuse to receive and transmit to the seller or landlord a written offer ~~or~~ on a listed property from another licensee *unless* specifically instructed by the seller in writing. The broker shall provide a copy of the written instructions to another licensee upon request.

(k) A seller's or landlord's agent shall not be liable for punitive or exemplary damages for the licensee's failure to perform any of the duties set forth in this section, unless such failure is shown by clear and convincing evidence that the licensee acted toward the plaintiff with willful conduct, wanton conduct, fraud or malice.

Sec. 6. K.S.A. 2014 Supp. 58-3063 is hereby amended to read as follows: 58-3063. (a) The commission shall adopt rules and regulations fixing the amounts of the fees provided for by this act, subject to the following:

(1) For any examination required for licensure, a fee in an amount equal to the actual cost of the examination and the administration thereof.

(2) For any criminal history record check required for licensure, a fee in the amount necessary to reimburse the commission for the cost of administering the criminal history record check.

(3) For submission of an application for an original salesperson's license, an amount not exceeding \$25.

(4) For submission of an application for an original broker's license, an amount not exceeding \$50.

(5) For an original salesperson's license, a prorated fee based on a two-year amount not exceeding ~~\$100~~ \$150.

(6) For an original broker's license, a prorated fee based on a two-year amount not exceeding ~~\$150~~ \$200.

(7) For renewal of a salesperson's license, a fee based on a two-year amount not exceeding ~~\$100~~ \$150.

(8) For renewal of a broker's license, a fee based on a two-year amount not exceeding ~~\$150~~ \$200.

(9) For reinstatement of a license which has been deactivated or which has been canceled pursuant to ~~subsection (c) of~~ K.S.A. 58-3047(c), and amendments thereto, or by reason of termination of a salesperson, an amount not exceeding \$15.

(10) For reinstatement of all licenses canceled pursuant to ~~subsec-~~

~~tions (d) or (f) of K.S.A. 58-3047(d) or (f), and amendments thereto, an amount not exceeding \$7.50 for each license canceled.~~

(11) For issuance of a duplicate license, an amount not exceeding \$10.

(12) For certification of licensure to another jurisdiction, an amount not exceeding \$10.

(13) For approval of a course of instruction submitted by a course provider pursuant to K.S.A. 58-3046a, and amendments thereto, an amount not exceeding \$75.

(14) For renewal of an approved course of instruction pursuant to K.S.A. 58-3046a, and amendments thereto, an amount not exceeding \$15.

(15) For approval of a course of instruction submitted by any licensee for credit toward the 12 hours of additional instruction required by K.S.A. 58-3046a, and amendments thereto, an amount not less than \$10 nor more than \$20, as determined by the commission.

(16) For a temporary salesperson's license, an amount not exceeding \$25.

(17) For each branch office opened or established after July 1, 2006, an amount not exceeding \$100.

(18) For each primary office of a company created or established by a supervising broker after July 1, 2006, an amount not exceeding \$100.

(19) For certification of a licensee's education history under K.S.A. 58-3046a, and amendments thereto, an amount not exceeding \$25.

(20) For certification of licensure of a professional corporation, an amount not exceeding \$25.

(21) For each additional primary or branch office at which a salesperson or an associate, supervising or branch broker is associated or employed, if such person is associated or employed by more than one primary or branch office, an amount not exceeding \$50, to be paid by such salesperson or broker.

(b) For each prorated fee, the commission shall establish a monthly amount, rounded off to the nearest dollar, and shall compute the fee from the last calendar day of the month in which the license is issued to the expiration date of the license.

(c) Subject to the limitations of this section, the commission shall fix the fees provided for by this section in the amounts necessary to administer and enforce this act.

(d) The fees provided for by this section shall be applicable regardless of the type of license.

Sec. 7. K.S.A. 58-30,106 and K.S.A. 2014 Supp. 58-3046a, 58-3050, 58-3062, 58-3063 and 58-30,103 are hereby repealed.

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

## CHAPTER 22

## SENATE BILL No. 95°

AN ACT concerning abortion; creating the Kansas unborn child protection from dismemberment abortion act.

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

Section 1. The provisions of sections 1 through 9, and amendments thereto, shall be known and may be cited as the Kansas unborn child protection from dismemberment abortion act.

Sec. 2. As used in sections 1 through 9, 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) (1) “Dismemberment abortion” means, with the purpose of causing the death of an unborn child, knowingly dismembering a living unborn child and extracting such unborn child one piece at a time from the uterus through the use of clamps, grasping forceps, tongs, scissors or similar instruments that, through the convergence of two rigid levers, slice, crush or grasp a portion of the unborn child’s body in order to cut or rip it off.

(2) The term “dismemberment abortion” does not include an abortion which uses suction to dismember the body of the unborn child by sucking fetal parts into a collection container, although it does include an abortion in which a dismemberment abortion, as defined in subsection (b)(1), is used to cause the death of an unborn child but suction is subsequently used to extract fetal parts after the death of the unborn child.

(c) “Knowingly” shall have the same meaning attributed to such term in K.S.A. 2014 Supp. 21-5202, and amendments thereto.

(d) “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. 3. (a) No person shall perform, or attempt to perform, a dismemberment abortion on an unborn child unless: (1) The dismember-

ment 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. No condition shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct that would result in her death or in substantial and irreversible physical impairment of a major bodily function.

(b) No woman upon whom an abortion is performed or attempted to be performed shall be liable for performing or attempting to perform a dismemberment abortion. No nurse, technician, secretary, receptionist or other employee or agent who is not a physician, but who acts at the direction of a physician, and no pharmacist or other individual who is not a physician, but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician shall be liable for performing or attempting to perform a dismemberment abortion.

Sec. 4. The attorney general or any district or county attorney with appropriate jurisdiction may bring a cause of action for injunctive relief against a person who has performed or attempted to perform a dismemberment abortion in violation of section 3, and amendments thereto. Any injunctive relief ordered pursuant to an action filed under this section shall prohibit the defendant from performing or attempting to perform any dismemberment abortions in violation of section 3, and amendments thereto.

Sec. 5. (a) A cause of action for civil damages against a person who has performed a dismemberment abortion in violation of section 3, and amendments thereto, may be maintained by the following persons, unless, in a case where the plaintiff is not the woman upon whom the abortion was performed, the pregnancy resulted from the plaintiff's criminal conduct:

(1) A woman upon whom a dismemberment abortion has been performed in violation of section 3, and amendments thereto;

(2) the father of the unborn child, if married to the woman at the time the dismemberment abortion was performed; or

(3) the parents or custodial guardians of the woman, if the woman has not attained the age of 18 years at the time of the abortion or has died as a result of the abortion.

(b) Damages awarded in such an action shall include:

(1) Money damages for all injuries, psychological and physical, occasioned by the dismemberment abortion;

(2) statutory damages equal to three times the cost of the dismemberment abortion;

(3) injunctive relief; and

(4) reasonable attorney fees awarded in accordance with subsection (d).

(d) (1) If judgment is rendered in favor of the plaintiff in an action brought under section 4, and amendments thereto, or this section, the court shall award reasonable attorney fees to the plaintiff in addition to any other relief that is awarded.

(2) If judgment is rendered in favor of the defendant in an action brought under section 4, and amendments thereto, or this section, and the court finds that the plaintiff's action was frivolous and brought in bad faith, the court shall award reasonable attorney fees to the defendant in addition to any other relief that is awarded.

(3) No attorney fees shall be assessed against the woman upon whom a dismemberment abortion was performed or attempted to be performed except in accordance with paragraph (2).

Sec. 6. Upon a first conviction of a violation of section 3, and amendments thereto, a person shall be guilty of a class A person misdemeanor. Upon a second or subsequent conviction of a violation of section 3, and amendments thereto, a person shall be guilty of a severity level 10, person felony.

Sec. 7. In every civil, criminal or administrative proceeding or action arising out of a violation of K.S.A. 65-6703, 65-6721, K.S.A. 2014 Supp. 65-6724 or section 3, and amendments thereto, the court shall rule whether the anonymity of any woman upon whom an unlawful abortion has been performed or attempted to be performed shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that such woman's anonymity should be preserved, shall issue orders to the parties, witnesses and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest and why no reasonable less restrictive alternative exists. In the absence of written consent of the woman upon whom an unlawful abortion has been performed or attempted to be performed, anyone other than a public official who brings an action arising out of a violation of K.S.A. 65-6703, 65-6721, K.S.A. 2014 Supp. 65-6724 or section 3, and amendments thereto, shall do so under a pseudonym. This section shall not be construed to conceal the identity of the plaintiff or of witnesses from the defendant or from attorneys for the defendant.

Sec. 8. Nothing in sections 1 through 9, and amendments thereto,

shall be construed as creating or recognizing a right to abortion, nor a right to a particular method of abortion.

Sec. 9. If any provision or clause of this act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

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

Approved April 7, 2015.

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## CHAPTER 23

### HOUSE BILL No. 2006

AN ACT concerning veterans; relating to license plates for disabled veterans; pertaining to parking in certain public parking spaces; amending K.S.A. 2014 Supp. 8-161 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 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, 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) (1) 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 transportation of such veteran.

(2) Motor vehicles displaying the distinctive license plates provided for in this act shall be permitted to:

(A) 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~~;

(B) 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; or

(C) *park without charge in any parking space in a public parking facility or public parking lot if such parking space 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 and such public parking facility or public parking lot employs persons who are parking attendants to collect payment. Any parking occurring under the provisions of this subparagraph shall also comply with all regulations and restrictions posted at the entrance of the public parking facility or public parking lot by its management.*

(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.

Sec. 2. K.S.A. 2014 Supp. 8-161 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, 2015.

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## CHAPTER 24

## HOUSE BILL No. 2126

AN ACT concerning insurance; relating to risk-based capital instructions; property and casualty actuarial opinion law; amending K.S.A. 2014 Supp. 40-223j and 40-2c01 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 40-223j is hereby amended to read as follows: 40-223j. (a) The statement of actuarial opinion shall be provided with the annual statement in accordance with the appropriate NAIC property and casualty annual statement instructions and shall be treated as a public document.

(b) (1) Any document, material or other information, in the control or possession of the department that is furnished to the commissioner pursuant to this act or obtained by the commissioner in an investigation pursuant to this section shall be kept confidential by the commissioner. Such information shall not be made public or subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner pursuant to this act or any other provision of the insurance laws of this state.

~~(2) (A) This subsection shall not be construed to limit the commissioner's authority to release the documents to the actuarial board for counseling and discipline so long as the material is required for the purpose of professional disciplinary proceedings and that the actuarial board for counseling and discipline establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents.~~

~~(B) This subsection shall not be construed to limit the commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.~~

*(2) (A) This subsection shall not be construed to limit the commissioner's authority to release the documents to the actuarial board for counseling and discipline so long as the material is required for the purpose of professional disciplinary proceedings and that the actuarial board for counseling and discipline establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents.*

*(B) This subsection shall not be construed to limit the commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.*

(3) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be required to testify in any private civil action concerning any confidential documents, materials or information subject to paragraph (1).

(4) The commissioner may share or exchange any documents, materials or other information, including confidential and privileged documents referred to in paragraph (1), received in the performance of the commissioner's duties under this act, with:

- (A) The NAIC and its affiliates and subsidiaries;
- (B) the actuarial board for counseling and discipline or any other entity which regulates actuaries;
- (C) other state, federal or international regulatory agencies; and
- (D) other state, federal or international law enforcement authorities.

(5) (A) The sharing or exchanging of documents, materials or other information under this subsection shall be conditioned upon the recipient's authority and agreement to maintain the confidential and privileged status, if any, of the documents, materials or other information being shared or exchanged.

(B) No waiver of an existing privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing such documents, materials or information as authorized by this subsection.

(6) The commissioner of insurance is hereby authorized to adopt such rules and regulations establishing protocols governing the exchange of information as may be necessary to implement and carry out the provisions of this act.

(c) The provisions of ~~paragraph (2) of~~ subsection (b)(2) shall expire on July 1, ~~2013~~ 2020, unless the legislature acts to reenact such provision. The provisions of ~~paragraph (2) of~~ subsection (b)(2) shall be reviewed by the legislature prior to July 1, ~~2013~~ 2020.

(d) For the purposes of this section: (1) "Commissioner" shall mean the commissioner of insurance.

(2) "NAIC" shall mean the national association of insurance commissioners.

Sec. 2. K.S.A. 2014 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, ~~2013~~ 2014, or any later version promulgated by the NAIC as may be adopted by the commissioner under K.S.A. 2014 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. 3. K.S.A. 2014 Supp. 40-223j and 40-2c01 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, 2015.

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## CHAPTER 25

### HOUSE BILL No. 2103\*

AN ACT designating bridge no. 14(030) on Kansas highway 15 in Clay county as the Clay county Vietnam veterans bridge.

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

Section 1. Bridge no. 14(030) on Kansas highway 15 in Clay county is hereby designated as the Clay county Vietnam veterans bridge. The secretary of transportation shall place suitable signs to indicate the bridge is the Clay county Vietnam veterans bridge, 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. 2. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 8, 2015.

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## CHAPTER 26

### HOUSE BILL No. 2192

AN ACT concerning the secretary of health and environment; relating to solid and hazardous waste, Kansas storage tank act; creating the environmental stewardship fund; amending K.S.A. 65-34,119 and K.S.A. 2014 Supp. 65-34,117 and 65-34,131 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 environmental stewardship fund. All moneys received pursuant to 65-34,117(b)(5) shall be deposited into the environmental stewardship fund.

(b) Fund expenditures from the environmental stewardship fund shall be used by the secretary of the department of health and environment for:

(1) The secretary of health and environment to take whatever emergency action necessary or appropriate in response to an environmental threat to public health or safety;

(2) state-led programs to investigate, monitor, remediate and perform long-term care actions;

(3) state matching funds and long-term care actions at federal remedial actions; and

(4) the administrative, personnel and contractual service expenses incurred in undertaking the provisions of this section.

(c) The secretary of the department of health and environment shall undertake cost recovery actions for expenditures from the environmental stewardship fund if a responsible party is identified.

(d) The environmental stewardship fund shall be used for the purposes set forth in this act and for no other governmental purposes. Moneys in the environmental stewardship fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(e) All such expenditures from the environmental stewardship 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.

New Sec. 2. (a) The secretary may provide for the reimbursement to eligible owners of underground storage tanks in accordance with the provisions of this section up to \$3,000,000 per state fiscal year and subject to the availability of moneys in the UST redevelopment fund. An owner of an underground storage tank shall be eligible for reimbursement under this section if the:

(1) Underground storage tank system is used for the storage of petroleum products for resale and is subject to the environmental assurance fee in accordance with provisions of K.S.A. 65-34,117, and amendments thereto;

(2) owner has been approved by the secretary and is not the United States government or any federal agency;

(3) owner replaces all components of a single-wall storage tank system with a secondary containment system that complies with K.S.A. 65-34,138, and amendments thereto, after August 8, 2005, and before June 30, 2020;

(4) owner is in substantial compliance with the Kansas storage tank act;

(5) owner provides 30-day notice and access to the department to perform an environmental assessment of the site:

(A) During replacement of the single-wall storage tank system with the secondary containment system installation, if done after July 1, 2015; and

(B) that determines that petroleum contamination exists and the owner applies to the underground fund to perform corrective action to address the contamination; and

(6) underground storage tank was registered with the department on or after May 1, 1981.

(b) Reimbursement pursuant to subsection (a) is subject to the following:

(1) For replacements undertaken after July 1, 2015, the storage tank owner must submit an application for reimbursement on forms supplied by the department and receive approval from the secretary of the proposed secondary containment system plan;

(2) upon approval of such plan, the owner shall obtain and submit to the secretary at least three bids from persons qualified to perform the secondary containment system installation except that, the secretary may waive this requirement upon a showing that the owner has made a good faith effort, but has not been able to obtain three bids from qualified bidders;

(3) for replacements undertaken before July 1, 2015, the owner must submit an application for reimbursement on forms supplied by the department with proof of costs and receive approval from the secretary; and

(4) the secretary may, in the secretary's discretion, determine those costs which are allowable as secondary containment system installation costs.

(c) Applications for reimbursement must include documentation of the secondary containment system installation and expense. Proof of payment of all expenses for which reimbursement is requested must be provided. The department will review those expenses based on current industry costs and provide reimbursement of reasonable and necessary costs. The department shall reimburse an applicant for the approved cost of the secondary containment system not to exceed \$50,000 per facility.

(d) The secretary may adopt such rules and regulations deemed necessary to carry out the provisions of this section.

(e) The provisions of this section shall be part of and supplemental to the Kansas storage tank act.

Sec. 3. K.S.A. 2014 Supp. 65-34,117 is hereby amended to read as follows: 65-34,117. (a) There is hereby established on and after July 1, 1992, an environmental assurance fee of \$.01 on each gallon of petroleum product, other than aviation fuel, manufactured in or imported into this state. The environmental assurance fee shall be paid by the manufacturer, importer or distributor first selling, offering for sale, using or delivering petroleum products within this state. The environmental assurance fee shall be paid to the department of revenue at the same time and in the same manner as the inspection fee established pursuant to K.S.A. 55-426, and amendments thereto, is paid. The secretary of revenue shall remit

the environmental assurance fees paid hereunder 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 ~~either the aboveground fund or~~ *the underground fund, the UST redevelopment fund or the environmental stewardship fund*, as provided by subsection (b). Exchanges of petroleum products on a gallon-for-gallon basis within a terminal and petroleum product which is subsequently exported from this state shall be exempt from this fee.

(b) Moneys collected from the environmental assurance fee imposed by this section shall be credited as follows:

(1) At any time when the unobligated principal balance of the underground fund is equal to \$2,000,000 or less, the moneys shall be credited to the underground fund until the unobligated principal balance of *the* underground fund equals or exceeds \$5,000,000.

(2) At any time when the unobligated principal balance of the aboveground fund is equal to \$500,000 or less and the moneys are not required to be credited to the underground fund under subsection (b)(1), such moneys shall be credited to the aboveground fund until the unobligated principal balance of the aboveground fund equals or exceeds \$1,500,000 or until subsection (b)(1) requires moneys to be credited to the underground fund, whichever occurs first. At any time when the unobligated principal balance of the aboveground fund exceeds \$1,500,000, the excess shall be transferred to the underground fund.

(3) At any time when the moneys cease to be credited to *the* aboveground fund before the unobligated principal balance of the aboveground fund equals or exceeds \$1,500,000, such moneys shall again be credited to the aboveground fund when the unobligated principal balance of the underground fund equals or exceeds \$5,000,000. Such moneys shall continue to be credited to the aboveground fund until the unobligated principal balance of the aboveground fund equals or exceeds \$1,500,000 or until subsection (b)(1) requires moneys to be credited to the underground fund, whichever occurs first.

(4) At any time when subsections (b)(1), (b)(2) and (b)(3) do not require moneys to be credited to either the underground fund or the aboveground fund, the excess shall be transferred to the UST redevelopment fund. If the unobligated principal balance of the UST redevelopment fund is equal to \$2,000,000 or less, the moneys shall be credited to the UST redevelopment fund until the unobligated principal balance of the UST redevelopment fund equals or exceeds \$5,000,000 or until subsections (b)(1), (b)(2) or (b)(3) require money.

(5) *At any time when subsections (b)(1), (b)(2), (b)(3) and (b)(4) do not require moneys to be credited to either the underground fund, the aboveground fund or the UST redevelopment fund, the money shall be credited to the environmental stewardship fund. If the unobligated prin-*

*principal balance of the environmental stewardship fund is equal to \$2,000,000 or less, the money shall be credited to the environmental stewardship fund until the unobligated principal balance of the environmental stewardship fund equals or exceeds \$5,000,000 or until subsections (b)(1), (b)(2), (b)(3) or (b)(4) require money.*

(c) At any time when subsections (b)(1), (b)(2), (b)(3)~~and~~, (b)(4) and (b)(5) do not require moneys to be credited to either the underground fund ~~or~~, the aboveground fund, *the UST redevelopment fund or the environmental stewardship fund*, no environmental assurance fees shall be levied unless and until such time as the unobligated principal balance in the underground fund is less than or equal to \$2,000,000 or the unobligated principal balance in the aboveground fund is less than or equal to \$500,000 *or the unobligated principal balance in the UST redevelopment fund or environmental stewardship fund is less than or equal to \$2,000,000*, in which case the collection of the environmental assurance fee will resume within 90 days following the end of the month in which such unobligated balance occurs. If no environmental assurance fees are being levied, the director of accounts and reports shall notify the secretary of revenue whenever the unobligated principal balance in the underground fund is \$2,000,000 or the unobligated principal balance in the aboveground fund is \$500,000 *or the unobligated principal balance in the UST redevelopment fund or environmental stewardship fund is \$2,000,000*, and the secretary of revenue shall then give notice to each person subject to the environmental assurance fee as to the imposition of the fee and the duration thereof.

The director of accounts and reports shall cause to be published each month, in the second issue of the Kansas register published in such month, the amount of the unobligated principal balances in the underground fund and the aboveground fund on the last day of the preceding calendar month.

(d) Every manufacturer, importer or distributor of any petroleum product liable for the payment of environmental assurance fees as provided in this act, shall report in full and detail before the 25th day of every month to the secretary of revenue, on forms prepared and furnished by the secretary of revenue, and at the time of forwarding such report, shall compute and pay to the secretary of revenue the amount of fees due on all petroleum products subject to such fee during the preceding month.

(e) All fees imposed under the provisions of this section and not paid on or before the 25th day of the month succeeding the calendar month in which such petroleum products were subject to such fee shall be deemed delinquent and shall bear interest at the rate of 1% per month, or fraction thereof, from such due date until paid. In addition thereto, there is hereby imposed upon all amounts of such fees remaining due and unpaid after such due date a penalty in the amount of 5% thereof.

Such penalty shall be added to and collected as a part of such fees by the secretary of revenue.

(f) The secretary of revenue is hereby authorized to adopt such rules and regulations as may be necessary to carry out the responsibilities of the secretary of revenue under this section.

Sec. 4. K.S.A. 65-34,119 is hereby amended to read as follows: 65-34,119. (a) Subject to the provisions of subsection (b), an owner or operator is entitled to reimbursement of reasonable costs of corrective action taken in response to a release from a petroleum storage tank if: (1) The owner or operator is not the United States government or any of its agencies; (2) the owner or operator is in substantial compliance, as provided in subsections (e) and (f); (3) the owner or operator undertakes corrective action, either through personnel of the owner or operator or through response action contractors or subcontractors; and (4) the corrective action is not in response to a release from an aboveground storage tank described in ~~subsection (g) or (h) of K.S.A. 65-34,103(g) or (h),~~ and amendments thereto. If the release is from an underground petroleum storage tank, reimbursement shall be from the underground fund and, if the release is from an aboveground petroleum storage tank, reimbursement shall be from the aboveground ~~fund~~.

(b) Reimbursement pursuant to subsection (a) is subject to the following provisions:

(1) Except as provided in subsections (g) and (h), the owner or operator shall be liable for the first costs of corrective action taken in response to a release from any petroleum storage tank in an amount equal to \$3,000 plus \$500 for each such tank owned or operated by the owner or operator at the site of the release or \$100,000, whichever is less. *The first costs of corrective actions will be waived for any site where petroleum contamination is discovered and reported during the replacement of a single-wall underground storage tank from July 1, 2015, to June 30, 2020, if such single-wall underground storage tank system is replaced with a secondary containment system in accordance with provisions of K.S.A. 65-34,138, and amendments thereto;*

(2) the owner or operator must submit to and receive from the secretary approval of the proposed corrective action plan, together with projected costs of the corrective action;

(3) the secretary may, in the secretary's discretion, determine those costs which are allowable as corrective action costs and those which are attributable or ancillary to removal, replacement or retrofitting of storage tanks;

(4) the owner or operator, or agents thereof, shall keep and preserve suitable records demonstrating compliance with the approved corrective action plan and all invoices and financial records associated with costs for which reimbursement will be requested;

(5) within 30 days of receipt of a complete corrective action plan, or as soon as practicable thereafter, the secretary shall make a determination and provide written notice as to whether the owner or operator responsible for corrective action is eligible or ineligible for reimbursement of corrective action costs and, should the secretary determine the owner or operator is ineligible, the secretary shall include in the written notice an explanation setting forth in detail the reasons for the determination;

(6) the owner or operator shall submit to the secretary a written notice that corrective action has been completed within 30 days of completing corrective action;

(7) no later than 30 days from the submission of the notice as required by subsection (b)(6), the owner or operator must submit an application for reimbursement of corrective action costs in accordance with criteria established by the secretary, and the application for reimbursement must include the total amount of the corrective action costs and the amount of reimbursement sought. In no case shall the total amount of reimbursement exceed the lesser of the actual costs of the corrective action or the amount of the lowest bid submitted pursuant to K.S.A. 65-34,118, and amendments thereto, and approved by the secretary, less the appropriate deductible amount;

(8) interim payments shall be made to an owner or operator in accordance with the plan approved by the secretary pursuant to K.S.A. 65-34,118, and amendments thereto, except that the secretary, for good cause shown, may refuse to make interim payments or withhold the final payment until completion of the corrective action;

(9) the owner or operator shall be fully responsible for removal, replacement or retrofitting of petroleum storage tanks and the cost thereof, and costs attributable or ancillary thereto, shall not be reimbursable from the respective fund;

(10) the owner or operator shall provide evidence satisfactory to the secretary that corrective action costs equal to the appropriate deductible amount have been paid by the owner or operator, and such costs shall not be reimbursed to the owner or operator;

(11) with regard to an underground petroleum storage tank, the owner or operator submits to the secretary proof, satisfactory to the secretary, that: (A) Such owner or operator is unable to satisfy the criteria for self-insurance under the federal act; or (B) such owner or operator is able to satisfy the criteria for self-insurance under the federal act but the release is from an underground petroleum storage tank not located at a facility engaged in production or refining of petroleum;

(12) with regard to an aboveground petroleum storage tank, the owner or operator submits to the secretary proof, satisfactory to the secretary, that the release is from an aboveground petroleum storage tank not located at a facility engaged in production or refining of petroleum; and

(13) the owner or operator shall be liable for all costs which are paid by or for which the owner or operator is entitled to reimbursement from insurance coverage, warranty coverage or any other source.

(c) For the purpose of determining an owner's or operator's eligibility for reimbursement and the applicable deductible of such owner or operator, the secretary shall consider all owners and operators owned or controlled by the same interests to be a single owner or operator, except that each state agency to which moneys are appropriated shall be considered individually as an owner or operator for such purpose.

(d) Notwithstanding the provisions of ~~subsection (c) of K.S.A. 65-34,118(c)~~, and amendments thereto, should the secretary find that any of the following situations exist, any or all owners or operators shall, in the discretion of the secretary, be liable for 100% of costs associated with corrective action necessary to protect health or the environment, if:

(1) The release was due to willful or wanton actions by the owner or operator;

(2) the owner or operator is in arrears for moneys owed, other than environmental assurance fees, to either the underground fund or the aboveground fund;

(3) the release was from a tank not registered with the department;

(4) the owner or operator fails to comply with any provision of the agreement specified in ~~subsection (c) of K.S.A. 65-34,118(c)~~, and amendments thereto;

(5) the owner or operator moves in any way to obstruct the efforts of the department or its contractors to investigate the presence or effects of a release or to effectuate corrective action;

(6) the owner or operator is not in substantial compliance with any provision of this act or rules and regulations promulgated hereunder; or

(7) the owner or operator allowed, failed to report or failed to take corrective action in response to such release, knowing or having reason to know of such release.

(e) Except as otherwise provided in subsections (f) and (g), an owner or operator is in substantial compliance with this act and the rules and regulations adopted hereunder, if:

(1) Each petroleum storage tank owned or operated by such owner or operator has been registered with the secretary, in accordance with the applicable laws of this state and any rules and regulations adopted thereunder;

(2) the owner or operator has entered into an agreement with the secretary, as provided in ~~subsection (c) of K.S.A. 65-34,118(c)~~, and amendments thereto;

(3) the owner or operator has complied with any applicable financial responsibility requirements imposed by the Kansas storage tank act and the rules and regulations adopted thereunder; and

(4) the owner or operator has otherwise made a good faith effort to

comply with the federal act if applicable, this act, any other law of this state regulating petroleum storage tanks and all applicable rules and regulations adopted under any of them.

(f) An owner or operator shall be deemed to be in substantial compliance with this act with respect to the following tanks if such owner or operator has notified the department, on forms provided by the department, of the tank's existence, including age, size, type, location, associated equipment and uses:

(1) Any farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) any aboveground tank of less than 660 gallons capacity; and

(3) any tank used for storing heating oil for consumptive use on the single family residential premise where stored.

(g) (1) Except as provided by subsection (g)(2), a person who owns property where a petroleum storage tank is located shall not be required to register such tank to be eligible for reimbursement from the respective fund of all costs of any necessary corrective action taken in response to a release from such tank and shall not be subject to the provisions of subsection (b)(1) if such person has at no time placed petroleum in such tank or withdrawn petroleum from such tank and such person:

(A) Submitted a corrective action plan prior to July 1, 1990, with respect to an underground petroleum storage tank, or prior to July 1, 1993, with respect to an aboveground petroleum storage tank;

(B) acquired such tank before December 22, 1988; or

(C) acquired such tank by intestate succession or testamentary disposition.

(2) A person shall not be eligible for reimbursement under subsection (g)(1) unless the owner or operator of the tank is unable or unwilling to perform corrective action or cannot be found, in which case the secretary may recover all reimbursement paid, and any related administrative and legal expenses, from the owner or operator as provided by ~~subsection (b) of K.S.A. 65-34,118(b)~~, and amendments thereto.

(h) An owner or operator shall be entitled, upon written notification to the secretary, to elect between the deductible provided by this section before July 1, 1992, and the deductible provided by this section on and after July 1, 1992, with respect to costs of corrective action taken on or after April 1, 1990, if such owner or operator has applied before July 1, 1992, for reimbursement of such costs from the respective fund. If an owner or operator or former owner or operator has paid a deductible that is greater than the deductible provided by this section on and after July 1, 1992, such owner or operator or former owner or operator may apply to the secretary for a refund of the difference in such deductibles. If the owner or operator or former owner or operator has died or no longer exists, no such refund shall be paid.

Sec. 5. K.S.A. 2014 Supp. 65-34,131 is hereby amended to read as follows: 65-34,131. (a) There is hereby established as a segregated fund in the state treasury the Kansas essential fuels supply trust fund. The Kansas essential fuels supply trust fund is hereby redesignated as the UST redevelopment fund. The UST redevelopment fund shall be administered by the secretary. Revenue from the following sources shall be deposited in the state treasury and credited to the UST redevelopment fund:

(1) The applicable proceeds of the environmental assurance fee imposed by K.S.A. 65-34,117, and amendments thereto; and

(2) interest attributable to investment of moneys in the UST redevelopment fund.

(b) The funds credited to the UST redevelopment fund may be expended to:

(1) Reimburse an eligible property owner in accordance with the provisions of K.S.A. 2014 Supp. 65-34,132, and amendments thereto, for allowable expenses for permanent closure of an abandoned underground storage tank;

(2) permit the secretary to conduct activities to permanently close an abandoned underground storage tank, if the underground storage tank owner or operator has not been identified or is unable or unwilling to perform permanent closure of the underground storage tank; ~~or~~

(3) *reimburse an eligible owner of an underground storage tank in accordance with the provisions of section 2, and amendments thereto, for allowable expenses for replacement and installation of all components of a single-wall underground storage tank system with a secondary containment system that complies with K.S.A. 65-34,138, and amendments thereto; or*

~~(3)~~(4) pay the administrative technical and legal costs incurred by the secretary in carrying out the provisions of *this section and* K.S.A. 2014 Supp. ~~65-34,131 and~~ 65-34,132, and amendments thereto, including the cost of any additional employees or increased general operating costs of the department attributable thereto, which costs shall not be payable from any moneys other than those credited to the UST redevelopment fund.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the above UST redevelopment fund interest earnings based on:

(1) The average daily balance of moneys in the UST redevelopment 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 above UST redevelopment 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.

(e) This section shall be part of and supplemental to the Kansas storage tank act.

Sec. 6. K.S.A. 65-34,119 and K.S.A. 2014 Supp. 65-34,117 and 65-34,131 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 8, 2015.

CHAPTER 27

HOUSE BILL No. 2275

AN ACT concerning the uniform controlled substances act; relating to substances included in schedules I, II, III and IV; amending K.S.A. 2014 Supp. 65-4105, 65-4107, 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. 2014 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 ..... 9603  
(except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM)
- (5) Alphameprodine ..... 9604
- (6) Alphamethadol ..... 9605
- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-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) Levophenacymorphan .....	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-piperidinyl]-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) Methyldesorphine ..... 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-methyl-phenethylamine; 2,5-DMA.
- (3) 4-methoxyamphetamine ..... 7411  
Some trade or other names: 4-methoxy-alpha-methylphene-tylamine; 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] azeepino [5,4-b]indole;	
	Tabernanthe iboga	
(15)	Lysergic acid diethylamide .....	7315
(16)	<del>Marihuana</del> - <i>Marijuana</i> .....	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 botanically as <i>Lophophora williamsii</i> 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)	<i>Salvia divinorum</i> or <i>salvinorum</i> A; all parts of the plant presently classified botanically as <i>salvia divinorum</i> , 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.	
(30)	<i>Datura stramonium</i> , commonly known as gypsum weed or jimson weed; all parts of the plant presently classified botanically as <i>datura stramonium</i> , 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.

(51) 2-(2,5-dimethoxy-4-methylphenyl)-N-(2-methoxybenzyl)ethanamine  
 Some trade or other names: 25D-NBOMe; 2C-D-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-trimethylbenzeneethanamine; 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 (thénylfentanyl), 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) Naphthoylpyrroles  
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-phenylacetylindole 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, *benzyl*, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the *benzyl* or tetramethylcyclopropyl ~~ring~~ *rings* 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~~ *isoquinolinyl* 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~~ *isoquinolinyl*, 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~~ *isoquinolinyl*, 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~~ *isoquinolinyl*, adamantyl, 1-amino-1-oxoalkan-2-yl, or benzyl groups to any extent.

(14) (1H-indazol-3-yl)methanones

Any compound containing a (1H-indazol-3-yl)methanone structure with the carbonyl carbon bearing a naphthyl 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 substituted on the naphthyl or benzyl groups to any extent.

Sec. 2. K.S.A. 2014 Supp. 65-4107 is hereby amended to read as follows: 65-4107. (a) The controlled substances listed in this section are included in schedule II 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 substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone and their respective salts, but including the following:

(A) Raw opium .....	9600
(B) Opium extracts .....	9610
(C) Opium fluid .....	9620
(D) Powdered opium .....	9639
(E) Granulated opium .....	9640
(F) Tincture of opium .....	9630
(G) Codeine .....	9050
(H) Ethylmorphine .....	9190
(I) Etorphine hydrochloride .....	9059
(J) Hydrocodone .....	9193
(K) Hydromorphone .....	9150
(L) Metopon .....	9260
(M) Morphine .....	9300
(N) Oxycodone .....	9143
(O) Oxymorphone .....	9652
(P) Thebaine .....	9333
(Q) Dihydroetorphine .....	9334
(R) Oripavine .....	9330

(2) Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine (9041) or ecgonine (9180).

(5) Cocaine, its salts, isomers and salts of isomers (9041).

(6) Ecgonine, its salts, isomers and salts of isomers (9180).

(7) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy) (9670).

(c) Any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation dextrorphan and levopropoxyphene excepted:

(1) Alfentanil .....	9737
(2) Alphaprodine .....	9010
(3) Anileridine .....	9020
(4) Bezitramide .....	9800
(5) Bulk dextropropoxyphene (nondosage forms) .....	9273
(6) Carfentanil .....	9743
(7) Dihydrocodeine .....	9120
(8) Diphenoxylate .....	9170
(9) Fentanyl .....	9801
(10) Isomethadone .....	9226
(11) Levomethorphan .....	9210
(12) Levorphanol .....	9220
(13) Metazocine .....	9240
(14) Methadone .....	9250
(15) Methadone-intermediate,4-cyano-2-dimethyl amino-4,4-diphenyl butane ...	9254
(16) Moramide-intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid .....	9802
(17) Pethidine (meperidine) .....	9230
(18) Pethidine-intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine .....	9232
(19) Pethidine-intermediate-B, ethyl-4-phenyl-piperidine-4-carboxylate .....	9233
(20) Pethidine-intermediate-C, 1-methyl-4-phenyl-piperidine-4-carboxylic acid...	9234
(21) Phenazocine .....	9715
(22) Piminodine .....	9730
(23) Racemethorphan .....	9732
(24) Racemorphan .....	9733
(25) Sufentanil .....	9740
(26) Levo-alphaacetyl methadol .....	9648
Some other names: levo-alpha-acetyl methadol, levomethadyl acetate or LAAM.	
(27) Remifentanil .....	9739
(28) Tapentadol .....	9780

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers and salts of its optical isomers .....	1100
(2) Phenmetrazine and its salts .....	1631
(3) Methamphetamine, including its salts, isomers and salts of isomers .....	1105
(4) Methylphenidate .....	1724
(5) Lisdexamfetamine, its salts, isomers, and salts of its isomers .....	1205

(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 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) Amobarbital ..... 2125
- (2) Glutethimide ..... 2550
- (3) Secobarbital ..... 2315
- (4) Pentobarbital ..... 2270
- (5) Phencyclidine ..... 7471

(f) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:
  - (A) Phenylacetone ..... 8501  
Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.
- (2) Immediate precursors to phencyclidine (PCP):
  - (A) 1-phenylcyclohexylamine ..... 7460
  - (B) 1-piperidinocyclohexanecarbonitrile (PCC) ..... 8603

(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:

- Nabilone ..... 7379  
[Another name for nabilone: (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one]

(h) 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 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
- (2) 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

Sec. 3. K.S.A. 2014 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
- (15) *Perampanel, its salts, isomers, and salts of isomers* ..... 2261

*Some other names for perampanel: 2-(2-oxo-1-phenyl-5-pyridin-2-yl-1,2-dihydropyridin-3-yl) benzonitrile*

(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)~~(3) 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)~~(4) 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)~~(5) *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)~~(6) 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)~~(7) 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 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) 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) Chlortermine . . . . . 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) formebolone (formebolone)
- (10) mesterolone
- (11) methandienone
- (12) methandranone
- (13) methandriol
- (14) methandrostenolone
- (15) methasterone (2 $\alpha$ ,17 $\alpha$ -dimethyl-5 $\alpha$ -androstan-17 $\beta$ -ol-3-one)
- (16) methenolone

- (17) methyltestosterone
- (18) mibolerone
- (19) nandrolone
- (20) norethandrolone
- (21) oxandrolone
- (22) oxymesterone
- (23) oxymetholone
- (24) prostanazol (17β-hydroxy-5α-androstano[3,2-c]pyrazole)
- (25) stanolone
- (26) stanozolol
- (27) testolactone
- (28) testosterone
- (29) trenbolone
- (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. 4. K.S.A. 2014 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
(54) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers (including tramadol) .....	9752
(55) Alfaxalone .....	2731
(56) Suvorexant .....	2223

(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).

(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 (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) Modafinil .....	1680

(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
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- (2) Butorphanol (including its optical isomers) ..... 9720
- (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
- (h) Butyl nitrite and its salts, isomers, esters, ethers or their salts.
- (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. 5. K.S.A. 2014 Supp. 65-4105, 65-4107, 65-4109 and 65-4111 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 8, 2015.  
Published in the *Kansas Register* April 16, 2015.

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CHAPTER 28  
HOUSE BILL No. 2246

AN ACT concerning municipalities; dealing with payment of claims; amending K.S.A. 2014 Supp. 12-105a and 12-105b and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 12-105a is hereby amended to read as follows: 12-105a. As used in this act ~~and the act of which this section is amendatory~~, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the context shall otherwise require:

(a) "Municipality" means and includes county, township, city, school district of whatever name or nature, community junior college, municipal university, city, county or district hospital, drainage district, cemetery district, fire district, and other political subdivision or taxing unit, and including their boards, bureaus, commissions, committees and other agencies, such as, but not limited to, library board, park board, recreation

commission, hospital board of trustees having power to create indebtedness and make payment of the same independently of the parent unit.

(b) “Governing body” means and includes the board of county commissioners, the governing body of a city, the township board (trustee, clerk and treasurer), board of education or other governing body of a school district, board of trustees of a community junior college, board of regents of a municipal university, the body of a special district (such as a drainage, cemetery, fire or other) which has the power to create indebtedness and is charged with the duty of paying the same, and the board, bureau, commission, committee or other body of an independent agency of a parent unit.

(c) “Claim” means the document relating to and stating an amount owing to the claimant by a municipality for material or service furnished to the municipality, or some action taken by or for the municipality and for which the municipality may or may not be responsible in a liquidated or an unliquidated amount. A claim is liquidated when the amount due or to become due is made certain by agreement of the parties or is fixed by law.

(d) “Warrant” means an instrument ordering the treasurer of a municipality to pay out of a designated fund a specified sum to a named person or party who or which has filed a claim against the municipality.

(e) “Check” means an ordinary check drawn on a depository bank of a municipality by the treasurer of such municipality and payable to the holder of a warrant or warrants issued by the municipality.

(f) “Warrant check” means a combination of warrant and check. It is a negotiable instrument which orders a depository bank to pay to the order of the payee therein named. A warrant check authorizes the bank upon which drawn to charge the municipality’s account with the amount stated therein.

(g) For the purposes of this act the term “audit” shall be construed to mean to examine and render an opinion as to allowance or rejection in whole or in part.

(h) *“Employee” means any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation.*

*“Employee” does not include an independent contractor working for a municipality under contract.*

Sec. 2. K.S.A. 2014 Supp. 12-105b is hereby amended to read as follows: 12-105b. (a) All claims against a municipality must be presented in writing with a full account of the items, and no claim shall be allowed except in accordance with the provisions of this section. A claim may be

the usual statement of account of the vendor or party rendering a service or other written statement showing the required information.

(b) Claims for salaries or wages of officers or employees need not be signed by the officer or employee if a payroll claim is certified by the administrative head of a department or group of officers or employees or an authorized representative that the salaries or wages stated therein were contracted or incurred for the municipality under authority of law, that the amounts claimed are correct, due and unpaid and that the amounts are due as salaries and wages for services performed by the person named.

Nothing in this subsection shall be construed as prohibiting the payment of employment incentive or retention bonuses authorized by K.S.A. 72-8246, and amendments thereto.

(c) No costs shall be recovered against a municipality *or against an employee of a municipality* in any action brought against ~~the municipality~~ *or an employee of a municipality* for any claims allowed in part unless the recovery shall be for a greater sum than the amount allowed, with the interest due. Subject to the terms of applicable insurance contracts, judgments and settlements obtained for claims recoverable pursuant to the Kansas tort claims act shall be presented for payment in accordance with this section or in such manner as the governing body may designate.

(d) Any person having a claim against a municipality *or against an employee of a municipality* which could give rise to an action brought under the Kansas tort claims act shall file a written notice as provided in this subsection before commencing such action. The notice shall be filed with the clerk or governing body of the municipality and shall contain the following: (1) The name and address of the claimant and the name and address of the claimant's attorney, if any; (2) a concise statement of the factual basis of the claim, including the date, time, place and circumstances of the act, omission or event complained of; (3) the name and address of any public officer or employee involved, if known; (4) a concise statement of the nature and the extent of the injury claimed to have been suffered; and (5) a statement of the amount of monetary damages that is being requested. In the filing of a notice of claim, substantial compliance with the provisions and requirements of this subsection shall constitute valid filing of a claim. The contents of such notice shall not be admissible in any subsequent action arising out of the claim. Once notice of the claim is filed, no action shall be commenced until after the claimant has received notice from the municipality that it has denied the claim or until after 120 days has passed following the filing of the notice of claim, whichever occurs first. A claim is deemed denied if the municipality fails to approve the claim in its entirety within 120 days unless the interested parties have reached a settlement before the expiration of that period. No person may initiate an action against a municipality *or against an employee of a municipality* unless the claim has been denied in whole or

part. Any action brought pursuant to the Kansas tort claims act shall be commenced within the time period provided for in the code of civil procedure or it shall be forever barred, except that, a claimant shall have no less than 90 days from the date the claim is denied or deemed denied in which to commence an action.

(e) Claims against a municipality which provide for a discount for early payment or for the assessment of a penalty for late payment may be authorized to be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may designate and authorize one or more of its officers or employees to pay any such claim made against the municipality in advance of its presentation to and approval by the governing body if payment of the amount of such claim is required before the next scheduled regular meeting of the governing body in order for the municipality to benefit from the discount provided for early payment or to avoid assessment of the penalty for late payment. Any officer or employee authorized to pay claims under this subsection shall keep an accurate record of all moneys paid and the purpose for which expended, and shall submit the record to the governing body at the next meeting thereof. Payments of claims by an officer or employee of the municipality under authority of this subsection are valid to the same extent as if the claims had been approved and ordered to be paid by the governing body.

(f) When an employee is required to travel on behalf of a municipality, the employee shall be entitled, upon complying with the provisions of the municipality's policies and regulations on employee travel, to timely payment of subsistence allowances and reimbursement for transportation and other related travel expenses incurred by the employee while on an approved travel status. When reimbursement through the regular claims approval process of the municipality will require more than 15 days from the date the reimbursement claim is filed, the claim may be authorized to be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may designate and authorize one or more of its officers or employees to pay any such claim made against the municipality in advance of its presentation to and approval by the governing body if payment of the amount of such claim is required before the next scheduled regular meeting of the governing body. Any officer or employee authorized to pay claims under this subsection shall keep an accurate record of all moneys paid and the purpose for which expended, and shall submit the record to the governing body at the next meeting thereof. Payments of claims by an officer or employee of the municipality under authority of this subsection are valid to the same extent as if the claims had been approved and ordered to be paid by the governing body.

(g) Claims submitted by members of a municipality's self-insured health plan may be authorized to be paid in advance of approval thereof

by the governing body. Such claims shall be submitted to the administrative officer of such insurance plan.

(h) Claims against a school district for the purchase of food or gasoline while students are on a co-curricular or extra-curricular activity outside of the school boundaries may be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may designate and authorize one or more of its officers or employees to pay any such claim made against the school district in advance of its presentation to and approval by the governing body.

(i) Except as otherwise provided, before any claim is presented to the governing body or before any claim is paid by any officer or employee of the municipality under subsection (e) or (f), it shall be audited by the clerk, secretary, manager, superintendent, finance committee or finance department or other officer or officers charged by law to approve claims affecting the area of government concerned in the claim, and thereby approved in whole or in part as correct, due and unpaid.

Sec. 3. K.S.A. 2014 Supp. 12-105a and 12-105b 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, 2015.

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## CHAPTER 29

### HOUSE BILL No. 2193

AN ACT concerning the secretary of health and environment; relating to environmental remediation; risk management program act; voluntary cleanup and property redevelopment act; amending K.S.A. 65-34,167, 65-34,168 and 65-34,169 and repealing the existing sections; also repealing K.S.A. 65-34,170.

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

New Section 1. (a) (1) For a site to be eligible to participate in the risk management program, the secretary shall make a finding that the site:

(A) Is subject to an agreement or order under the authority of the secretary's bureau of environmental remediation; and

(B) poses a low risk to human health and the environment.

(2) In making eligibility determinations, the secretary shall have authority to consider such additional factors as deemed relevant.

(3) Any changes in site conditions or property use that results in a change in the risks posed by the site shall make a site ineligible for acceptance or continued participation in the risk management program.

(b) (1) Funding for the risk management plan may be satisfied by the secretary where adequate funding is supplied by federal grants, desig-

nated fee funds or other funding sources. The secretary shall remit to the state treasurer, in accordance with K.S.A. 75-4215, and amendments thereto, all moneys received from this act. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the risk management fund. Funding requirements for the risk management plan payment will be based on the size and risk of the site to which the risk management plan applies, amount of contaminated groundwater, toxicity and mobility of the contaminants, frequency of long term care activities and oversight costs, as determined by the secretary.

(2) Upon acceptance of the application, participants shall make a one-time payment for the risk management plan of a minimum of \$2,500.

(c) (1) There is hereby established in the state treasury the risk management fund. Moneys from the following sources shall be deposited in the state treasury and credited to the fund:

(A) Moneys collected from the one-time payments;

(B) moneys received by the secretary in the form of gifts, grants, reimbursements or appropriations from any source intended to be used for purposes of the fund; and

(C) interest attributable to the investment of moneys in the fund.

(2) Moneys in the risk management plan fund shall be expended only for the costs of:

(A) Review of risk management applications;

(B) oversight of risk management plan requirements;

(C) implementation of the risk management plan upon failure of the participant;

(D) activities performed by the secretary to address immediate or emergency threats to human health or the environment related to properties subject to risk management plans;

(E) development, operation and maintenance of the risk management plan tracking system; and

(F) administration and enforcement of the provisions of this act.

(3) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the risk management fund interest earnings based on the:

(A) Average daily balance of moneys in the risk management fund for the preceding month; and

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

(4) All expenditures from the risk management plan 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 the secretary's designee for purposes set forth in this section.

(d) (1) A risk management plan shall terminate if it is demonstrated to the secretary's satisfaction that the risk management plan is no longer necessary to protect human health or the environment. Any person shall

submit a request to the secretary for approval to terminate a risk management plan. The secretary shall review the request and provide the secretary's decision to approve or deny the request within 120 days after the secretary's receipt of the request. If the secretary denies the request, justification shall be provided with a written explanation of the denial including that the person has not provided the documentation to demonstrate that the request is protective of human health and the environment, as determined by the secretary.

(2) A risk management plan agreement shall be an enforceable contract, that may be transferred to another person upon approval by the secretary. Any risk management plan may be modified by mutual written agreement by the person and the secretary. The secretary shall not acquire any liability by virtue of approving a risk management plan or by approving expiration of all or a portion of a risk management plan.

(e) A risk management plan pursuant to this section may include or require:

(1) Prompt notification to the secretary of any transfer of property that is the subject of a risk management plan, such notice to be given by the participant;

(2) prompt notification to the secretary of any change in use of the property that is the subject of a risk management plan;

(3) maintenance of protective structures or remedial systems at the site, such as soil caps, soil covers, soil surfaces, berms, drainage structures, vegetation, monitoring wells or other structures or systems;

(4) access to the property by agents of the secretary as necessary to inspect and monitor the risk management plan activities;

(5) any other obligations necessary to reduce or eliminate risks or threats to human health and the environment from the site; or

(6) restrictions, prohibitions and zoning requirements placed on property in the site by a local or state government. Such restrictions, prohibitions and zoning requirements may be utilized in addition with any risk management plan activities approved by the secretary. This provision does not grant or expand authority of local government to restrict, prohibit, zone or regulate land.

(f) Upon receipt of information that an approved risk management plan is not being implemented as written or that property subject to an approved risk management plan presents a hazard to human health or the environment, the secretary may take such actions as may be necessary to protect human health or the environment. The action the secretary may take shall include, but not be limited to:

(1) Issuing an order directing the participant to take such steps as are necessary to correct any deficiencies and fully implement the approved risk management plan.

(2) Issuing an order retracting the approval of the risk management

plan and require the participant to implement remediation of the site to a cleanup standard that will allow for unrestricted use of the site.

(3) Assessing an administrative penalty of up to \$500 per day for failure to comply with the terms of the risk management plan.

(4) Performing actions required by the risk management plan and recovering any and all costs from the person responsible for performance of such actions.

(5) Commencing an action enjoining acts or practices set forth in the approved risk management plans or requesting that the attorney general or appropriate district or county attorney commence an action to enjoin such actions that result in approved risk management plans not being implemented or not being fully or properly implemented or that present a substantial and imminent threat or hazard to human health or the environment.

(g) Prior to the secretary's approval of the risk management plan, the participant shall provide written notification to all property owners and occupants within the site and provide proof of such notification to the secretary. The secretary may choose based on public interest to initiate and participate in public meetings to discuss the pending risk management plan.

(h) Any person adversely affected by any order or decision of the secretary pursuant to this act, within 15 days after service of the order or decision, may request in writing a hearing. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(i) As used in this section:

(1) "Long term care" means any activity, approved in the risk management plan, that provides assurances that the contamination at the site is not impacting human health;

(2) "owner" means any owner of record of property or authorized representative;

(3) "participant" means any person who has submitted an application for a risk management plan and the plan has been approved by the secretary and successor in interest to the risk management plan agreement;

(4) "person" means any individual, trust, firm, joint stock company, public or private corporation, limited liability company or partnership, the federal government or any agency or instrumentality thereof, any state, state agency, instrumentality, political or taxing subdivision thereof or any interstate body;

(5) "property" means real property;

(6) "remedial activity" means any assessment, cleanup or other action necessary or appropriate to respond to a release or threat of release of environmental contamination at a site;

(7) “risk management plan” means a long term care plan approved by the secretary and intended to protect human health and the environment at a site where residual contamination is above cleanup standards;

(8) “risk management plan agreement” means an enforceable agreement between the participant and the secretary that enacts the risk management plan;

(9) “secretary” means the secretary of health and environment; and

(10) “site” means all areas and media to which environmental contamination or pollution has been released, transported, migrated or to which contamination may migrate.

(j) The secretary shall adopt rules and regulations to implement the provisions of this act.

(k) The provisions of this section are declared to be severable and if any provision, word, phrase or clause of the section or the application thereof to any person shall be held invalid, such invalidity shall not affect the validity of the remaining portions of this section or the application thereof.

Sec. 2. K.S.A. 65-34,167 is hereby amended to read as follows: 65-34,167. Remedial alternatives shall be based on the actual risk to human health and the environment currently posed by contaminants ~~on the property~~, considering the following factors:

(a) The present and proposed future uses of the property and surrounding properties;

(b) the ability of the contaminants to move in a form and manner which would result in exposure to humans and the surrounding environment at levels which exceed applicable state standards and guidelines or ~~the results of a risk analysis if such standards and guidelines are not available~~ *which exceed acceptable contaminant concentrations as determined by a risk analysis that evaluates the property and surrounding properties as a whole*; and

(c) the potential risks associated with proposed cleanup alternatives and the reliability and economic and technical feasibility of such alternatives.

Sec. 3. K.S.A. 65-34,168 is hereby amended to read as follows: 65-34,168. (a) The department shall provide formal written notification to the applicant that a voluntary cleanup plan has been approved or disapproved within 60 days of submittal of the voluntary cleanup plan by the applicant unless the department extends the time for review to a date certain.

(b) The department shall approve a voluntary cleanup plan if the department concludes that the plan will attain a degree of cleanup and control of contaminants that complies with all applicable statutes and rules and regulations.

(c) If a voluntary cleanup plan is not approved by the department,

the department shall promptly provide the applicant with a written statement of the reasons for denial. If the department disapproves a voluntary cleanup plan based upon the applicant's failure to submit the information required, the department shall notify the applicant of the deficiencies in the information submitted.

(d) The approval of a voluntary cleanup plan by the department applies only to those contaminants and conditions identified on the property based upon the statutes and rules and regulations that exist when the application is submitted.

(e) (1) Upon determination by the department that a voluntary cleanup plan is acceptable, the department shall publish a notice of the determination in a local newspaper of general circulation in the area affected and make the voluntary cleanup plan available to the public. The public shall have 15 days from the date of publication during which any person may submit to the department written comments regarding the voluntary cleanup plan. After 15 days have elapsed, the department may hold a public information meeting if, in the department's judgment, the comments submitted warrant such a meeting or if the applicant requests such a meeting. Upon completion of the public notification and participation process, the department shall make a determination to approve the plan in accordance with this section.

(2) *The voluntary cleanup plan and associated documents shall be available for public review upon request from a member of the public.*

(3) *Such cleanup plan and any associated documents shall be indexed and posted on the website of the Kansas department of health and environment upon determination by the department that a voluntary cleanup plan is acceptable and for at least five years following the no further action determination.*

(f) Departmental approval of a voluntary cleanup plan shall be void upon:

(1) Failure of an applicant to comply with the approved voluntary cleanup plan;

(2) willful submission of false, inaccurate or misleading information by the applicant in the context of the voluntary cleanup plan; or

(3) failure to initiate the plan within 6 months after approval by the department, or failure to complete the plan within 24 months after approval by the department, unless the department grants an extension of time.

(g) An applicant desiring to implement a voluntary clean up plan after the time limits prescribed by subsection (f)(3) have expired shall submit a written petition for reapplication accompanied by written assurances from the applicant that the conditions on the subject property are substantially similar to those existing at the time of the original approval. Reapplications shall be reviewed by the department. Any reapplication that involves property upon which the condition has substantially changed

since approval of the original voluntary cleanup plan shall be treated as a new application and shall be subject to all the requirements of this act.

(h) Within 45 days after the completion of the voluntary cleanup described in the approved voluntary cleanup plan, the applicant shall provide to the department assurance that the plan has been fully implemented. A verification sampling program shall be required by the department to confirm that the property has been cleaned up as described in the voluntary cleanup plan.

Sec. 4. K.S.A. 65-34,169 is hereby amended to read as follows: 65-34,169. (a) After an applicant completes the requirements of this act, the department may determine that no further remedial action is required. Within 60 days after such completion, unless the applicant and the department agree to an extension of the time for review, the department shall provide written notification that a no further action determination has been made.

~~(b)-(1)~~ The department may consider in issuing this determination that contamination or a release of contamination originates from a source on adjacent ~~another~~ property upon which the necessary action which protects human health and the environment is or will be taken by a viable and financially capable person or entity which may or may not be legally responsible for the source of contamination.

~~(2)~~ The department shall provide written notification of a no further action determination.

~~(3)-(c)~~ The issuance of a no further action determination by the department applies only to identified conditions on the property and is based upon applicable statutes and rules and regulations that exist as of the time of completion of the requirements.

~~(e)-(d)~~ The department may determine that the no further action determination, under this section is void if:

(1) There is any evidence of fraudulent representation, false assurances, concealment or misrepresentation of the data in any document to be submitted to the department under this act;

(2) the applicant agrees to perform any action approved by the department and fails to perform such action;

(3) the applicant's willful and wanton conduct contributes to known environmental contamination; or

(4) the applicant fails to complete the voluntary actions required in the voluntary cleanup plan.

~~(d)-(e)~~ If a no further action determination is not issued by the department, the department shall promptly provide the applicant with a written statement of the reasons for denial.

Sec. 5. K.S.A. 65-34,167, 65-34,168, 65-34,169 and 65-34,170 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, 2015.

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## CHAPTER 30

### HOUSE BILL No. 2009

AN ACT concerning the division of post audit; relating to background checks; amending K.S.A. 2014 Supp. 46-1103 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 46-1103 is hereby amended to read as follows: 46-1103. (a) There is hereby established the division of post audit within the legislative branch of the government. The division of post audit shall be under the direct supervision of the post auditor in accordance with policies adopted by the legislative post audit committee.

(b) (1) Employees in the division of post audit shall be in the unclassified service, shall receive such compensation as is provided under this act and shall be covered by the state group health plan and Kansas public employees retirement system to the same extent as other state employees.

(2) Employees of the division of post audit shall receive travel expenses and subsistence expenses and allowances as provided for other state employees.

(3) Employees in the division of post audit shall be employed by and be responsible to the post auditor who shall fix the compensation of each such employee subject to approval of the legislative post audit committee and within budget and appropriations therefor.

(c) (1) The post auditor may require employees of the division of post audit *and other persons who contract to work with or work under the direction of the post auditor* to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the employee and to determine whether the employee has a record of criminal history in this state or another jurisdiction. The post auditor 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 post auditor in the taking and processing of fingerprints of employees *or other such persons*. *Local law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section*. The post auditor may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the employee *or other such person* and in the official determination of the qualifications

and fitness of the employee ~~to be employed by or other such person to work with~~ the division of post audit *in any capacity*.

(2) *If any person offered a position of employment in the division of post audit, including any person who contracts to work with the division of post audit is subject to a criminal history records check, such person shall be given a written notice that a criminal history records check is required. The post auditor may require such applicant person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the applicant person and to determine whether the applicant person has a record of criminal history in this state or another jurisdiction. The post auditor 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 post auditor in the taking and processing of fingerprints of applicants each such person. Local law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section. The post auditor may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the applicant person and in the official determination of the eligibility of the applicant person to perform appropriate tasks within for the division of post audit. If the criminal history record information is used to disqualify an applicant, the applicant a person from employment or a contract offer, such person shall be informed in writing of that decision.*

(d) The annual budget request of the division shall be prepared by the post auditor and the post auditor shall present it to the legislative post audit committee. The committee shall make any changes it desires in said budget request and then shall transmit it to the legislative coordinating council. Such council shall make any changes it desires in such budget request and upon approval of the budget request by the council, the post auditor shall submit it to the director of the budget as other budget requests are submitted.

Sec. 2. K.S.A. 2014 Supp. 46-1103 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, 2015.

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## CHAPTER 31

## HOUSE BILL No. 2254

AN ACT concerning roofing contractor registration; relating to exemption of certain general contractors; amending K.S.A. 2014 Supp. 50-6,122 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 50-6,122 is hereby amended to read as follows: 50-6,122. As used in K.S.A. 2014 Supp. 50-6,121 through 50-6,138, and amendments thereto:

(a) (1) “Roofing contractor” means any person, including a subcontractor and nonresident contractor, who in the ordinary course of business:

(A) Engages in the business of commercial or residential roofing services for a fee; or

(B) offers to engage in or solicits roofing-related services, including construction, installation, renovation, repair, maintenance, alteration and waterproofing.

(2) Roofing contractor shall not mean:

(A) A person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material; ~~or~~

(B) a person working under the direct supervision of the roofing contractor and who is hired by such roofing contractor as an employee; ~~or day laborer, or contract laborer, or~~

(C) *an exempt general contractor.*

(b) “Nonresident contractor” means any contractor who:

(1) Has not established and maintained a place of business as a roofing contractor in this state within the preceding year;

(2) claims residency in another state; or

(3) has not submitted an income tax return as a resident of this state within the preceding year.

(c) “Person” means any individual, firm, partnership, association, corporation, limited liability company, or other group or combination thereof acting as a unit, unless the intent to give a more limited meaning is disclosed clearly by this act.

(d) “Attorney general” means the attorney general of the state of Kansas or the attorney general’s designee.

(e) *“Exempt general contractor” means a “general contractor,” as defined in K.S.A. 12-1540(d), and amendments thereto, who meets the following conditions:*

(1) *The general contractor, upon request of the attorney general, demonstrates by a preponderance of the evidence all of the following:*

(A) *The general contractor is in compliance with all requirements to do business in the state of Kansas, including any municipality or county*

requirements applicable to the location in which the general contractor intends to do business that involves roofing services;

(B) the general contractor engages in roofing services in addition to construction, installation, renovation, repair, maintenance, alteration or waterproofing services on the project, and the roofing services do not constitute more than 50% of the total project cost; and

(C) the general contractor or its agents, employees or representatives do not engage in “door-to-door sales,” as defined in K.S.A. 50-640(c)(1), and amendments thereto; or

(2) the general contractor contracts for the performance of roofing services and upon request of the attorney general, demonstrates by a preponderance of the evidence all of the following:

(A) The general contractor does not directly supervise the roofing contractor’s employees or agents and the roofing contractor is a separate legal business entity;

(B) neither the general contractor nor any of its agents or employees engages in roofing services;

(C) the roofing contractor used by the general contractor holds an active, valid roofing contractor registration certificate in good standing and the general contractor secures a copy of the roofing contractor’s registration certificate and has it available for inspection during business hours at the location where roofing services are being provided;

(D) the contract between the general contractor and the roofing contractor specifies that the roofing contractor shall perform and be responsible for all roofing services, maintain direct supervision of any agent of such roofing contractor or person hired by such roofing contractor to perform roofing services, and notify the general contractor immediately if the roofing contractor’s roofing registration certificate is suspended or otherwise becomes invalid under the provisions of this act or the roofing contractor is no longer in compliance with any of the requirements of this act;

(E) the general contractor is in compliance with all other requirements to do business in the state of Kansas, including any municipality or county requirements applicable to the location in which the general contractor intends to do business that involves roofing services; and

(F) the general contractor or its agents, employees or representatives do not engage in “door-to-door sales,” as defined in K.S.A. 50-640(c)(1), and amendments thereto.

New Sec. 2. In the event a general contractor is notified or becomes aware that a roofing contractor used by the general contractor has violated or is no longer in compliance with any of the requirements of this act, the general contractor shall immediately inform the attorney general.

New Sec. 3. The attorney general may, upon request of a general

contractor, issue a letter of exemption stating that the general contractor is an exempt general contractor, as defined by this act.

Sec. 4. K.S.A. 2014 Supp. 50-6,122 is 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, 2015.

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## CHAPTER 32

### HOUSE BILL No. 2336

AN ACT concerning children and minors; relating to juvenile offenders; risk assessment tool; placement in the custody of the secretary of corrections; amending K.S.A. 2014 Supp. 38-2361, 38-2366 and 38-2369 and repealing the existing sections.

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

Section 1. On and after July 1, 2015, K.S.A. 2014 Supp. 38-2361 is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2014 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2014 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2014 Supp. 38-2368, and amendments thereto, and subject to ~~subsection (a) of~~ K.S.A. 2014 Supp. 38-2365(a), and amendments thereto, the court may impose one or more of the following sentencing alternatives. In the event that any sentencing alternative chosen constitutes an order authorizing or requiring removal of the juvenile from the juvenile's home and such findings either have not previously been made or the findings are not or may no longer be current, the court shall make determinations as required by K.S.A. 2014 Supp. 38-2334 and 38-2335, and amendments thereto.

(1) Place the juvenile on probation through court services or community corrections for a fixed period, subject to terms and conditions the court deems appropriate consistent with juvenile justice programs in the community.

(2) Order the juvenile to participate in a community based program available in such judicial district subject to the terms and conditions the court deems appropriate. This alternative shall not be ordered with the alternative in paragraph (12) and when ordered with the alternative in paragraph (10) shall constitute a recommendation. Requirements pertaining to child support may apply if custody is vested with other than a parent.

(3) Place the juvenile in the custody of a parent or other suitable person, subject to terms and conditions consistent with juvenile justice

programs in the community. This alternative shall not be ordered with the alternative in paragraph (10) or (12). Requirements pertaining to child support may apply if custody is vested with other than a parent.

(4) Order the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug evaluation pursuant to subsection (b).

(5) Suspend or restrict the juvenile's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (c).

(6) Order the juvenile to perform charitable or community service work.

(7) Order the juvenile to make appropriate reparation or restitution pursuant to subsection (d).

(8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to subsection (e).

(9) Place the juvenile under a house arrest program administered by the court pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto.

(10) Place the juvenile in the custody of the ~~commissioner~~ *secretary of corrections* as provided in K.S.A. 2014 Supp. 38-2365, and amendments thereto. This alternative shall not be ordered with the alternative in paragraph (3) or (12). Except for a mandatory drug and alcohol evaluation, when this alternative is ordered with alternatives in paragraphs (2), (4) and (9), such orders shall constitute a recommendation by the court. Requirements pertaining to child support shall apply under this alternative.

(11) Commit the juvenile to a sanctions house for a period no longer than 28 days subject to the provisions of subsection ~~(f)~~(g).

(12) Commit the juvenile directly to the custody of the ~~commissioner~~ *secretary of corrections* for a period of confinement in a juvenile correctional facility and a period of aftercare pursuant to K.S.A. 2014 Supp. 38-2369, and amendments thereto. The provisions of K.S.A. 2014 Supp. 38-2365, and amendments thereto, shall not apply to juveniles committed pursuant to this provision, provided however, that 21 days prior to the juvenile's release from a juvenile correctional facility, the ~~commissioner~~ *secretary of corrections* or designee shall notify the court of the juvenile's anticipated release date. The court shall set and hold a permanency hearing pursuant to K.S.A. 2014 Supp. 38-2365, and amendments thereto, within seven days after the juvenile's release. This alternative may be ordered with the alternative in paragraph (7). Requirements pertaining to child support shall apply under this alternative.

(b) If the court orders the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug and alcohol evaluation pursuant to subsection (a)(4), the following provisions apply:

(1) The court may order the juvenile offender to participate in coun-

seling or mediation sessions or a program of education, including placement in an alternative educational program approved by a local school board. The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than what the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than what the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative. Mediation may include the victim but shall not be mandatory for the victim; and

(2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a statute that makes such a requirement, the court shall order and, if adjudicated for any other offense, the court may order the juvenile to submit to and complete a drug and alcohol evaluation by a community-based drug and alcohol safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive the mandatory evaluation if the court finds that the juvenile completed a drug and alcohol evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If the evaluation occurred more than 12 months before sentencing, the court shall order the juvenile to resubmit to and complete the evaluation and program as provided herein. If the court finds that the juvenile and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against ~~the commissioner or the juvenile justice authority~~ *secretary of corrections or the department of corrections* nor shall the fee be assessed against the secretary of the department for children and families or the Kansas department for children and families if the juvenile is in the secretary's care, custody and control.

(c) If the court orders suspension or restriction of a juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (a)(5), the following provisions apply:

(1) The duration of the suspension ordered by the court shall be for a definite time period to be determined by the court. Upon suspension of a license pursuant to this subsection, the court shall require the juvenile offender to surrender the license to the court. The court 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 juvenile offender 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 juvenile offender's privilege to operate a motor vehicle is in effect. As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any juvenile offender who does not have a driver's license may have driving privileges revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked pursuant to this section for a definite time period to be determined by the court; and

(2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a motor vehicle on the highways of this state, the court may enter an order which places conditions on the juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which the juvenile offender shall be required to carry any time the juvenile offender is operating a motor vehicle on the streets and highways of this state. The order shall prescribe a definite time period for the conditions imposed. Upon entering an order restricting a juvenile offender's license, the court shall require the juvenile offender to surrender such juvenile offender's license to the court. The court shall transmit the license 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 the juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing the conditions is required to be carried by the juvenile offender when operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court 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 the juvenile offender's state of issuance. The court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until the division issues the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the juvenile offender may apply to the division for the return of the license previously surrendered by the juvenile offender. In the event the license has expired, the juvenile offender 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 juvenile offender's privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender violates any of the conditions imposed under this subsection, the juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be revoked for a period as

determined by the court in which the juvenile offender is convicted of violating such conditions.

(d) The following provisions apply to the court's determination of whether to order reparation or restitution pursuant to subsection (a)(7):

(1) The court shall order the juvenile to make reparation or restitution to the aggrieved party for the damage or loss caused by the juvenile offender's offense unless it finds compelling circumstances that would render a plan of reparation or restitution unworkable. If the court finds compelling circumstances that would render a plan of reparation or restitution unworkable, the court shall enter such findings with particularity on the record. In lieu of reparation or restitution, the court may order the juvenile to perform charitable or social service for organizations performing services for the community; and

(2) restitution may include, but shall not be limited to, the amount of damage or loss caused by the juvenile's offense. Restitution may be made by payment of an amount fixed by the court or by working for the parties sustaining loss in the manner ordered by the court. An order of monetary restitution shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile offender.

(e) If the court imposes a fine pursuant to subsection (a)(8), the following provisions apply:

(1) The amount of the fine may not exceed \$1,000 for each offense. The amount of the fine should be related to the seriousness of the offense and the juvenile's ability to pay. Payment of a fine may be required in a lump sum or installments;

(2) in determining whether to impose a fine and the amount to be imposed, the court shall consider that imposition of a fine is most appropriate in cases where the juvenile has derived pecuniary gain from the offense and that imposition of a restitution order is preferable to imposition of a fine; and

(3) any fine imposed by court shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile.

(f) *Before the court places the juvenile in a detention center as part of probation or community corrections pursuant to subsection (a)(1), places the juvenile under a house arrest program pursuant to subsection (a)(9), places the juvenile in the custody of the secretary of corrections pursuant to subsection (a)(10), commits the juvenile to a sanctions house pursuant to subsection (a)(11) or commits the juvenile directly to the custody of the secretary of corrections for a period of confinement in a juvenile correctional facility pursuant to subsection (a)(12), the court shall administer a risk assessment tool, as described in K.S.A. 2014 Supp. 38-*

2360, and amendments thereto, or review a risk assessment tool that was administered within the past six months to the juvenile.

~~(f)~~(g) If the court commits the juvenile to a sanctions house pursuant to subsection (a)(11), the following provisions shall apply:

(1) The court may order commitment for up to 28 days for the same offense or violation of sentencing condition. The court shall review the commitment every seven days and, may shorten the initial commitment or, if the initial term is less than 28 days, may extend the commitment;

(2) if, in the sentencing order, the court orders a sanctions house placement for a verifiable probation violation and such probation violation occurs, the juvenile may immediately be taken to a sanctions house and detained for no more than 48 hours, excluding Saturdays, Sundays, holidays, and days on which the office of the clerk of the court is not accessible, prior to court review of the placement. The court and all parties shall be notified of the sanctions house placement; and

(3) a juvenile over 18 years of age and less than 23 years of age at sentencing shall be committed to a county jail, in lieu of a sanctions house, under the same time restrictions imposed by paragraph (1), but shall not be committed to or confined in a juvenile detention facility.

~~(g)~~(h) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's minutes.

~~(h)~~(i) In addition to the requirements of K.S.A. 2014 Supp. 38-2373, and amendments thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an offense if committed by an adult would constitute the commission of a felony, the court shall forward a signed copy of the journal entry to the ~~commissioner~~ *secretary of corrections* within 30 days of final disposition.

~~(i)~~(j) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for an offense that if committed by an adult would constitute the commission of: (1) Aggravated human trafficking, as defined in ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age; (2) rape, as defined in ~~subsection (a)(3) of~~ K.S.A. 2014 Supp. 21-5503(a)(3), and amendments thereto; (3) aggravated indecent liberties with a child, as defined in ~~subsection (b)(3) of~~ K.S.A. 2014 Supp. 21-5506(b)(3), and amendments thereto; (4) aggravated criminal sodomy, as defined in ~~subsection (b)(1) or (b)(2) of~~ K.S.A. 2014 Supp. 21-5504(b)(1) or (b)(2), and amendments thereto; (5) commercial sexual exploitation of a child, as defined in K.S.A. 2014 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age; (6) sexual exploitation of a child, as defined in ~~subsection (a)(1) or (a)(4) of~~ K.S.A. 2014 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is less than 14 years of age; or (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2014 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in ~~parts~~ *paragraphs* (1) through (6); the court shall issue an order

prohibiting the juvenile from attending the attendance center that the victim of the offense attends. If only one attendance center exists, for which the victim and juvenile are eligible to attend, in the school district where the victim and the juvenile reside, the court shall hear testimony and take evidence from the victim, the juvenile, their families and a representative of the school district as to why the juvenile should or should not be allowed to remain at the attendance center attended by the victim. After such hearing, the court may issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends.

(j)-(k) The sentencing hearing shall be open to the public as provided in K.S.A. 2014 Supp. 38-2353, and amendments thereto.

Sec. 2. K.S.A. 2014 Supp. 38-2366 is hereby amended to read as follows: 38-2366. (a) When a juvenile offender who is:

(1) Under 16 years of age at the time of the sentencing, has been prosecuted and convicted as an adult or under the extended jurisdiction juvenile prosecution, and has been placed in the custody of the secretary of the department of corrections, the secretary shall notify the sheriff having the offender in custody to convey such juvenile offender at a time designated by the ~~juvenile justice authority~~ *department of corrections* to a juvenile correctional facility. The ~~commissioner~~ *secretary* shall notify the court, in writing, of the initial placement of the offender in the specific juvenile correctional facility as soon as the placement has been accomplished.

(2) *At least 16 but less than 18 years of age at the time of sentencing, has been prosecuted and convicted as an adult or under the extended jurisdiction juvenile prosecution, and has been placed in the custody of the secretary, the secretary shall notify the sheriff having the offender in custody to convey such juvenile offender at a time designated by the department of corrections to a juvenile correctional facility or adult correctional institution. The secretary shall notify the court, in writing, of the initial placement of the offender in the specific juvenile correctional facility or adult correctional institution as soon as the placement has been accomplished.*

The ~~commissioner~~ *secretary* shall not permit the juvenile offender to remain detained in any jail for more than 72 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, after the ~~commissioner~~ *secretary* has received the written order of the court placing the offender in the custody of the ~~commissioner~~ *secretary*. If such placement cannot be accomplished, the offender may remain in jail for an additional period of time, not exceeding 10 days, which is specified by the ~~commissioner~~ *secretary* and approved by the court.

(b) *Except as provided in subsection (a), a juvenile who has been*

prosecuted and convicted as an adult shall not be eligible for admission to a juvenile correctional facility. All other conditions of the offender's sentence imposed under this code, including restitution orders, may remain intact. ~~The provisions of this subsection shall not apply to an offender who: (1) Is under 16 years of age at the time of the sentencing; (2) has been prosecuted as an adult or under extended juvenile jurisdiction; and (3) has been placed in the custody of the secretary of corrections, requiring admission to a juvenile correctional facility pursuant to subsection (a).~~

Sec. 3. On and after July 1, 2015, K.S.A. 2014 Supp. 38-2369 is hereby amended to read as follows: 38-2369. (a) For the purpose of committing juvenile offenders to a juvenile correctional facility, the following placements shall be applied by the judge in felony or misdemeanor cases. If used, the court shall establish a specific term of commitment as specified in this subsection, unless the judge conducts a departure hearing and finds substantial and compelling reasons to impose a departure sentence as provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. *Before a juvenile offender is committed to a juvenile correctional facility pursuant to this section, the court shall administer a risk assessment tool, as described in K.S.A. 2014 Supp. 38-2360, and amendments thereto, or review a risk assessment tool that was administered within the past six months to the juvenile.*

(1) *Violent Offenders.* (A) The violent offender I is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute an off-grid felony. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of 60 months and up to a maximum term of the offender reaching the age of 22 years, six months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of the offender reaching the age of 23 years.

(B) The violent offender II is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 1, 2 or 3 felony. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of 24 months and up to a maximum term of the offender reaching the age 22 years, six months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of the offender reaching the age of 23 years.

(2) *Serious Offenders.* (A) The serious offender I is defined as an offender adjudicated as a juvenile offender for an offense:

(i) Which, if committed by an adult, would constitute a nondrug severity level 4, 5 or 6 person felony;

(ii) committed prior to July 1, 2012, which, if committed by an adult

prior to July 1, 2012, would constitute a drug severity level 1 or 2 felony; or

(iii) committed on or after July 1, 2012, which, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony.

Offenders in this category may be committed to a juvenile correctional facility for a minimum term of 18 months and up to a maximum term of 36 months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 24 months.

(B) The serious offender II is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 7, person felony with one prior felony adjudication. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of nine months and up to a maximum term of 18 months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 24 months.

(C) The serious offender III is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 8, 9 or 10 person felony with one prior felony adjudication. Offenders in this category may only be committed to a juvenile correctional facility if the judge conducts a departure hearing and finds substantial and compelling reasons to impose a departure sentence as provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a departure sentence is imposed, offenders in this category may be committed to a juvenile correctional facility for a minimum term of nine months and up to a maximum term of 18 months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 24 months.

(3) *Chronic Offenders.* (A) The chronic offender I, chronic felon is defined as an offender adjudicated as a juvenile offender for an offense:

(i) Which, if committed by an adult, would constitute one present nonperson felony adjudication and two prior felony adjudications;

(ii) committed prior to July 1, 2012, which, if committed by an adult prior to July 1, 2012, would constitute one present drug severity level 3 felony adjudication and two prior felony adjudications; or

(iii) committed on or after July 1, 2012, which, if committed by an adult on or after July 1, 2012, would constitute one present drug severity level 4 felony adjudication and two prior felony adjudications.

Offenders in this category may only be committed to a juvenile correctional facility if the judge conducts a departure hearing and finds substantial and compelling reasons to impose a departure sentence as provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a departure sentence is imposed, offenders in this category may be committed to a juvenile correctional facility for a minimum term of six months

and up to a maximum term of 18 months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 12 months.

(B) The chronic offender II, escalating felon is defined as an offender adjudicated as a juvenile offender for an offense:

(i) Which, if committed by an adult, would constitute one present felony adjudication and either two prior misdemeanor adjudications or one prior person or nonperson felony adjudication;

(ii) which, if committed by an adult, would constitute one present felony adjudication and two prior drug severity level 4 or 5 adjudications;

(iii) committed prior to July 1, 2012, which, if committed by an adult prior to July 1, 2012, would constitute one present drug severity level 3 felony adjudication and either two prior misdemeanor adjudications or one prior person or nonperson felony adjudication;

(iv) committed prior to July 1, 2012, which, if committed by an adult prior to July 1, 2012, would constitute one present drug severity level 3 felony adjudication and two prior drug severity level 4 or 5 adjudications;

(v) committed on or after July 1, 2012, which, if committed by an adult on or after July 1, 2012, would constitute one present drug severity level 4 felony adjudication and either two prior misdemeanor adjudications or one prior person or nonperson felony adjudication; or

(vi) committed on or after July 1, 2012, which, if committed by an adult on or after July 1, 2012, would constitute one present drug severity level 4 felony adjudication and two prior drug severity level 4 or 5 adjudications.

Offenders in this category may only be committed to a juvenile correctional facility if the judge conducts a departure hearing and finds substantial and compelling reasons to impose a departure sentence as provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a departure sentence is imposed, offenders in this category may be committed to a juvenile correctional facility for a minimum term of six months and up to a maximum term of 18 months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 12 months.

(C) The chronic offender III, escalating misdemeanant is defined as an offender adjudicated as a juvenile offender for an offense:

(i) Which, if committed by an adult, would constitute one present misdemeanor adjudication and either two prior misdemeanor adjudications or one prior person or nonperson felony adjudication and two placement failures;

(ii) which, if committed by an adult, would constitute one present misdemeanor adjudication and two prior drug severity level 4 or 5 felony adjudications and two placement failures;

(iii) Which, if committed by an adult, would constitute one present drug severity level 4 felony adjudication and either two prior misde-

meaneor adjudications or one prior person or nonperson felony adjudication and two placement failures;

(iv) which, if committed by an adult, would constitute one present drug severity level 4 felony adjudication and two prior drug severity level 4 or 5 felony adjudications and two placement failures;

(v) committed on or after July 1, 2012, which, if committed by an adult on or after July 1, 2012, would constitute one present drug severity level 5 felony adjudication and either two prior misdemeanor adjudications or one prior person or nonperson felony adjudication and two placement failures; or

(vi) committed on or after July 1, 2012, which, if committed by an adult on or after July 1, 2012, would constitute one present drug severity level 5 felony adjudication and two prior drug severity level 4 or 5 adjudications and two placement failures.

Offenders in this category may only be committed to a juvenile correctional facility if the judge conducts a departure hearing and finds substantial and compelling reasons to impose a departure sentence as provided in K.S.A. 2014 Supp. 38-2371, and amendments thereto. If a departure sentence is imposed, offenders in this category may be committed to a juvenile correctional facility for a minimum term of three months and up to a maximum term of six months. The aftercare term for this offender is set at a minimum term of three months and up to a maximum term of six months.

(4) *Conditional Release Violators*. Upon finding the juvenile violated a requirement or requirements of conditional release, the court may:

(A) Subject to the limitations in ~~subsection (a)~~ of K.S.A. 2014 Supp. 38-2366(a), and amendments thereto, commit the offender directly to a juvenile correctional facility for a minimum term of three months and up to a maximum term of six months. The aftercare term for this offender shall be a minimum of two months and a maximum of six months, or the length of the aftercare originally ordered, whichever is longer.

(B) Enter one or more of the following orders:

(i) Recommend additional conditions be added to those of the existing conditional release.

(ii) Order the offender to serve a period of sanctions pursuant to ~~subsection (f)~~ of K.S.A. 2014 Supp. 38-2361(g), and amendments thereto.

(iii) Revoke or restrict the juvenile's driving privileges as described in ~~subsection (e)~~ of K.S.A. 2014 Supp. 38-2361(c), and amendments thereto.

(C) Discharge the offender from the custody of the ~~commissioner~~ *secretary of corrections*, release the ~~commissioner~~ *secretary of corrections* from further responsibilities in the case and enter any other appropriate orders.

(b) As used in this section:

(1) "Placement failure" means a juvenile offender in the custody of

the ~~juvenile justice authority~~ *secretary of corrections* has significantly failed the terms of conditional release or has been placed out-of-home in a community placement accredited by the ~~commissioner~~ *secretary of corrections* and has significantly violated the terms of that placement or violated the terms of probation.

(2) “Adjudication” includes out-of-state juvenile adjudications. An out-of-state offense, which if committed by an adult would constitute the commission of a felony or misdemeanor, shall be classified as either a felony or a misdemeanor according to the adjudicating jurisdiction. If an offense which if committed by an adult would constitute the commission of a felony is a felony in another state, it will be deemed a felony in Kansas. The state of Kansas shall classify the offense, which if committed by an adult would constitute the commission of a felony or misdemeanor, as person or nonperson. In designating such offense as person or nonperson, reference to comparable offenses shall be made. If the state of Kansas does not have a comparable offense, the out-of-state adjudication shall be classified as a nonperson offense.

(c) All appropriate community placement options shall have been exhausted before a chronic offender III, escalating misdemeanant shall be placed in a juvenile correctional facility. A court finding shall be made acknowledging that appropriate community placement options have been pursued and no such option is appropriate.

(d) The ~~commissioner~~ *secretary of corrections* shall work with the community to provide on-going support and incentives for the development of additional community placements to ensure that the chronic offender III, escalating misdemeanant sentencing category is not frequently utilized.

(e) Any juvenile offender committed to a juvenile correctional facility who is adjudicated for an offense committed while such juvenile was committed to a juvenile correctional facility, may be adjudicated to serve a consecutive term of commitment in a juvenile correctional facility.

Sec. 4. K.S.A. 2014 Supp. 38-2366 is hereby repealed.

Sec. 5. On and after July 1, 2015, K.S.A. 2014 Supp. 38-2361 and 38-2369 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 8, 2015.

Published in the *Kansas Register* April 16, 2015.

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## CHAPTER 33

HOUSE BILL No. 2216  
(Amended by Chapter 100)

AN ACT concerning financial organizations; relating to the Kansas money transmitter act, the Kansas mortgage business act, remote service units; enacting the Kansas ABLE savings program; amending K.S.A. 2014 Supp. 9-508, 9-509, 9-510, 9-511, 9-513a, 9-513b, 9-1111 and 9-2201 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 9-508 is hereby amended to read as follows: 9-508. As used in this act:

(a) “Agent” means ~~either a person receiving designated by a licensee to receive funds from a Kansas resident and forwarding in order to forward such funds to~~ a the licensee to effectuate money transmission ~~or a person designated to otherwise engage in the business of money transmission on behalf of the licensee~~ at one or more physical locations throughout the state or through the internet, regardless of whether such person would be exempt from the act by conducting money transmission on such person’s own behalf;

(b) “commissioner” means the state bank commissioner;

(c) “control” means the power directly or indirectly to direct management or policies of a person engaged in money transmission or to vote 25% or more of any class of voting shares of a person engaged in money transmission;

(d) “electronic instrument” means a card or other tangible object for the transmission or payment of money, including a prepaid access card or device which contains a microprocessor chip, magnetic stripe or other means for the storage of information, that is prefunded and for which the value is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in goods or services;

(e) “licensee” means a person licensed under this act;

(f) “nationwide multi-state licensing system and registry” means a licensing system developed and maintained by the conference of state bank supervisors, or its successors and assigns, for the licensing and reporting of those persons engaging in the money transmission;

(g) “monetary value” means a medium of exchange, whether or not redeemable in money;

(h) “money transmission” means to engage in the business of the sale or issuance of payment instruments or of receiving money or monetary value for transmission to a location within or outside the United States by wire, facsimile, electronic means or any other means, except that money transmission does not include currency exchange where no transmission of money occurs;

(i) ~~“outstanding payment instrument” means any payment instrument issued by the licensee which has been sold in the United States directly by the licensee or any money order or instrument issued by the~~

~~licensee which has been sold by an agent of the licensee in the United States, which has been reported to the licensee as having been sold and which has not yet been paid by or for the licensee~~ “outstanding payment liability” means:

(1) *With respect to a payment instrument, any payment instrument issued or sold by the licensee which has been sold in the United States directly by the licensee, or any payment instrument that has been sold by an agent of the licensee in the United States, which has been reported to the licensee as having been sold and which has not yet been paid by or for the licensee;*

(2) *with respect to the transmission of money or monetary value, any money or monetary value the licensee or an agent of the licensee has received from a customer in the United States for transmission which has not yet been delivered to the recipient or otherwise paid by the licensee;*

(j) “payment instrument” means any electronic or written check, draft, money order, travelers check or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. The term “payment instrument” does not include any credit card voucher, any letter of credit or any instrument which is redeemable by the issuer in goods or services;

(k) “permissible investments” means:

(1) Cash;

(2) deposits in a demand or interest bearing account with a domestic federally insured depository institution, including certificates of deposit;

(3) debt obligations of a domestic federally insured depository institution;

(4) any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities;

(5) investment grade bonds and other legally created general obligations of a state, an agency or political subdivision of a state, the United States or an instrumentality of the United States;

(6) obligations that a state, an agency or political subdivision of a state, the United States or an instrumentality of the United States has unconditionally agreed to purchase, insure or guarantee and that bear a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

(7) shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities or a fund composed of one or more permissible investments as set forth herein;

(8) receivables that are payable to a licensee, in the ordinary course of business, pursuant to contracts which are not past due and which do

not exceed in the aggregate 40% of the total required permissible investments pursuant to K.S.A. 9-513b, and amendments thereto. A receivable is past due if not remitted to the licensee within 10 business days; or

(9) any other investment or security device approved by the commissioner;

(l) “person” means any individual, partnership, association, joint-stock association, trust, corporation or any other form of business enterprise;

(m) “resident” means any natural person or business entity located in this state; and

(n) “tangible net worth” means the physical worth of a licensee, calculated by taking a licensee’s assets and subtracting its liabilities and its intangible assets, such as copyrights, patents, intellectual property and goodwill.

Sec. 2. K.S.A. 2014 Supp. 9-509 is hereby amended to read as follows: 9-509. (a) No person shall engage in the business of selling, issuing or delivering its payment instrument, check, draft, money order, personal money order, bill of exchange, evidence of indebtedness or other instrument for the transmission or payment of money or otherwise engage in the business of money transmission with a resident of this state, or, except as provided in K.S.A. 9-510, and amendments thereto, act as agent for another in the transmission of money as a service or for a fee or other consideration, unless such person files an application and obtains a license from the commissioner.

(b) Each license shall expire December 31 of each year. A license shall be renewed by filing with the commissioner a complete application and nonrefundable application fee at least 30 days prior to expiration of the license. Expired licenses may be reinstated through February 28 of each year by filing a reinstatement application and paying the appropriate application and late fees.

(c) It shall be unlawful for a person, acting directly or indirectly or through concert with one or more persons, to acquire control of any person engaged in money transmission through purchase, assignment, pledge or other disposition of voting shares of such money transmitter, except with the prior approval of the commissioner. Request for approval of the proposed acquisition shall be made by filing an application with the commissioner at least 60 days prior to the acquisition.

(d) All applications shall be submitted in the form and manner prescribed by the commissioner. Additionally, the following shall apply to all applications:

(1) The commissioner may use a nationwide multi-state licensing system and registry for processing applications, renewals, amendments, surrenders, and any other activity the commissioner deems appropriate. The

commissioner may also use a nationwide multi-state licensing system and registry for requesting and distributing any information regarding money transmitter licensing to and from any source so directed by the commissioner. The commissioner may establish relationships or contracts with the nationwide multi-state licensing system and registry or other entities to collect and maintain records and process transaction fees or other fees related to applicants, licensees, as may be reasonably necessary to participate in the nationwide multi-state licensing system and registry. The commissioner may report violations of the law, as well as enforcement actions and other relevant information to the nationwide multi-state licensing system and registry. The commissioner may require any applicant or licensee to file reports with the nationwide multi-state licensing system and registry in the form prescribed by the commissioner.

(2) An application shall be accompanied by nonrefundable fees established by the commissioner for the license and each agent location. The commissioner shall determine the amount of such fees to provide sufficient funds to meet the budget requirements of administering and enforcing the act for each fiscal year. For the purposes of this subsection, "each agent location" means each physical location within the state where money transmission is conducted, including, but not limited to, branch offices, authorized vendor offices, delegate offices, kiosks and drop boxes. Any person using the multi-state licensing system shall pay all associated costs.

(3) (A) The commissioner may require fingerprinting of any individual, officer, director, partner, member, shareholder or any other person related to the application deemed necessary by the commissioner. If the applicant is a publicly traded corporation or a subsidiary of a publicly traded corporation, no fingerprint check shall be required. Fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction.

(B) The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person, or in the case of an applicant company, the persons associated with the company.

(C) For purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have with the individual states, the commissioner may use a nationwide multi-state licensing system and registry for requesting information from and distributing information to the department of justice or any governmental agency.

(D) Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.

(4) Each application shall include audited financial statements for each of the two fiscal years immediately preceding the date of the application and an interim financial statement, as of a date not more than 90 days prior to the date of the filing of an application. *The audited and interim financial statements shall be prepared in accordance with United States generally accepted accounting principles or in any other form or manner approved by the commissioner.* Any person not in business two years prior to the filing of the application shall submit a statement in the form and manner prescribed by the commissioner sufficient to demonstrate compliance with subsection (e).

(e) In addition, each person submitting an application shall meet the following requirements:

(1) The tangible net worth of such person shall be at all times not less than \$250,000, as shown by an audited financial statement and certified to by an owner, a partner or officer of the corporation or other entity filed in the form and manner prescribed by the commissioner. A consolidated financial statement from an applicant's holding company may be accepted by the commissioner. The commissioner may require any person to file a statement at any other time upon request;

(2) such person shall deposit and at all times keep on deposit with ~~the state treasurer, or~~ a bank in this state approved by the commissioner, cash or securities satisfactory to the commissioner in an amount not less than \$200,000. The commissioner may increase the amount of cash or securities required up to a maximum of ~~\$500,000~~ \$1,000,000 upon the basis of ~~the impaired financial condition of a person, as evidenced by a reduction in net worth, financial losses or other relevant criteria as determined by the commissioner:~~

(A) *The volume of money transmission business transacted in this state by such person; or*

(B) *the impaired financial condition of a licensee, as evidenced by a reduction in net worth or financial losses;*

(3) in lieu of the deposit of cash or securities required by ~~paragraph (B)~~ *this subsection*, such person may give a surety bond in an amount equal to that required for the deposit of cash or securities, in a form satisfactory to the commissioner and issued by a company authorized to do business in this state, which bond shall be payable to the office of the state bank commissioner and be filed with the commissioner; and

(4) such person shall submit a list to the commissioner of the names and addresses of other persons who are authorized to act as agents for transactions with Kansas residents.

(f) The deposit of cash, securities or surety bond required by this section shall be subject to:

(1) Payment to the commissioner for the protection and benefit of

purchasers of money transmission services, purchasers or holders of payment instruments furnished by such person, and those for whom such person has agreed to act as agent in transmission of monetary value and to secure the faithful performance of the obligations of such person in respect to the receipt, handling, transmission and payment of monetary value; and

(2) payment to the commissioner for satisfaction of any expenses, fines, fees or refunds due pursuant to this act, levied by the commissioner or that become lawfully due pursuant to a final judgment or order.

(g) The aggregate liability of the surety for all breaches of the conditions of the bond, in no event, shall exceed the amount of such bond. The surety on the bond shall have the right to cancel such bond upon giving 30 days' notice to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation. The commissioner or any aggrieved party may enforce claims against such deposit of cash or securities or surety bond. So long as the depositing person is not in violation of this act, such person shall be permitted to receive all interest and dividends on the deposit and shall have the right to substitute other securities satisfactory to the commissioner. If the deposit is made with a bank, any custodial fees shall be paid by such person.

(h) (1) The commissioner shall have the authority to examine the books and records of any person operating in accordance with the provisions of this act, at such person's expense, to verify compliance with state and federal law.

(2) *The commissioner may require any person operating in accordance with the provisions of this act to maintain such documents and records as necessary to verify compliance with this act, or any other applicable state or federal law or regulation.*

~~(2)~~(3) For purposes of investigation, examination or other proceeding under this act, the commissioner may administer or cause to be administered oaths, subpoena witnesses and documents, compel the attendance of witnesses, take evidence and require the production of any document that the commissioner determines to be relevant to the inquiry.

(i) Except as authorized with regard to the appointment of agents, a licensee is prohibited from transferring, assigning, allowing another person to use the licensee's license, or aiding any person who does not hold a valid license under this act in engaging in the business of money transmission.

Sec. 3. K.S.A. 2014 Supp. 9-510 is hereby amended to read as follows: 9-510. A licensee may engage in the business of money transmission at one or more locations in this state and through or by means of such agents as such licensee may designate and appoint from time to time subject to the following provisions:

~~(1)(a)~~ No agent of a licensee shall be required to comply with the licensing provisions of this act.

~~(2)(b)~~ Only a licensee may designate an agent. *A licensee must obtain prior approval from the commissioner to designate an agent that conducts money transmission business through the internet without a physical location in this state.*

~~(A)(c)~~ No agent shall appoint a subagent.

~~(B)~~ No person acting as an agent for an exempt entity shall be exempt from the licensing provisions of this act.

~~(3)~~ A person accepting a consumer's funds for transmission through an exempt entity is a money transmitter and subject to the provisions of this act.

*(d) A person acting as an agent for an exempt entity or any other person accepting funds for transmission through an exempt entity is a money transmitter and subject to the provisions of this act.*

~~(4)(e)~~ In conjunction with filing a renewal application, each applicant shall provide in the form and manner prescribed by the commissioner a complete list of its proposed or existing agents. At the end of each calendar quarter each licensee shall provide in the form and manner prescribed by the commissioner any additions or deletions in the licensee's agents.

~~(5)(f)~~ A written contract between a licensee and agent shall be maintained for inspection by the commissioner upon request and the written contract must contain provisions to the following effect:

~~(A)(1)~~ The agent must operate in full compliance with this act and the rules and regulations adopted thereunder.

~~(B)(2)~~ The agent is prohibited from using subagents or conducting money transmission business from locations that have not been approved by the licensee.

~~(C)(3)~~ A description of the specific money services the licensee has permitted the agent to perform on behalf of the licensee.

~~(6)(g)~~ The agent may only conduct activities authorized by the licensee in the written agreement, unless the agent is also a licensee.

~~(7)(h)~~ A licensee may contract with another licensee to use that other licensee's existing authorized agents only for the purpose of loading funds onto existing prepaid access cards. The licensee with the direct contractual relationship with the agents shall record the transactions as such licensee's own. If a shared agent sells new prepaid access cards on behalf of the licensee, then such licensee must directly contract with the agent and comply with all other requirements for designating an agent.

Sec. 4. K.S.A. 2014 Supp. 9-511 is hereby amended to read as follows: 9-511. The following persons shall be exempt from the provisions of this act:

(a) (1) Banks, building and loan associations, savings and loan asso-

ciations, savings banks or credit unions organized under the laws of and subject to the supervision of this state, another state or the United States;

(2) *service providers that: (A) By written agreement with the exempt entities listed in (a)(1), provide for receipt and delivery of funds, network access, processing, clearance or settlement services in support of money transmission activities; and (B) allow the state or federal regulators with regulatory jurisdiction over the exempt entity to examine and inspect the applicable records, books and transactions relating to the service provider;*

(3) the government of the United States and its agencies, including agents of the government and its agencies; or

~~(3)~~(4) the state of Kansas and its agencies, including agents of the state of Kansas and its agencies.

(b) This act also shall not apply to the distribution, transmission or payment of money as a part of the lawful practice of law, bookkeeping, accounting or real estate sales or brokerage or as an incidental and necessary part of any lawful business activity.

Sec. 5. K.S.A. 2014 Supp. 9-513a is hereby amended to read as follows: 9-513a. The commissioner, after notice and an opportunity for a hearing, may deny, suspend, revoke or refuse to renew a license issued pursuant to this act, or issue a cease and desist order if the commissioner finds any of the following are applicable to any person who is required to be licensed under this act or such person's agent:

(a) The financial responsibility, character, reputation, experience and general fitness of the person, such person's senior officers, directors and principal stockholders are such to warrant the belief that the business may not be operated efficiently, fairly and in the public interest;

(b) the person may be financially unable to perform such person's obligations or that the person has willfully failed without reasonable cause to pay or provide for payment of any of such person's obligations related to the person's money transmission business;

(c) the person no longer meets a requirement for initial granting of a license;

(d) the person has filed with the commissioner any document or statement falsely representing or omitting a material fact;

(e) the person concealed a fact or a condition exists which would clearly have justified the commissioner's refusal to grant a license had the fact or condition been known to exist at the time the application for the license was made;

(f) the person or a senior officer, director or a stockholder who owns more than 10% of the money transmission business' outstanding stock has been convicted of a crime involving fraud, dishonesty or deceit;

(g) there has been entry of a federal or state administrative order against the person for violation of any rule and regulation applicable to the conduct of the person's money transmission business;

(h) the person refused to *provide information requested by the commissioner or refused to permit an examination or investigation by the commissioner;*

(i) a failure to pay to the commissioner any fee required by this act;

(j) the person has engaged in any transaction, practice or business conduct that is fraudulent or deceptive in connection with the business of money transmission;

(k) the person advertises, displays, distributes, broadcasts or televises any false, misleading or deceptive statement or representation with regard to rates, terms or conditions for the transmission of money;

(l) the person fails to keep and maintain sufficient records to permit an audit to satisfactorily disclose to the commissioner the licensee's compliance with the provisions of the act;

(m) the person has been the subject of any disciplinary action by this or any other state or federal agency;

(n) a final judgment has been entered against the person in a civil action and the commissioner finds the conduct on which the judgment is based indicates that it would be contrary to the public interest to permit such person to be licensed;~~or~~

(o) the person has violated any order issued by the commissioner, any provision of this act, any rule and regulation adopted thereto, or any other state or federal law applicable to money transmission; *or*

(p) *the person has refused or otherwise failed to provide, after a reasonable time as determined by the commissioner, any information necessary to approve or renew an application or license issued pursuant to this act.*

Sec. 6. K.S.A. 2014 Supp. 9-513b is hereby amended to read as follows: 9-513b. (a) Each licensee under this act shall at all times possess permissible investments having an aggregate market value, calculated in accordance with *United States* generally accepted accounting principles, of not less than the aggregate amount of ~~all the outstanding payment instruments issued or sold~~ *liability held* by the licensee in the United States. This requirement may be waived by the commissioner if the dollar volume of a licensee's outstanding payment ~~instruments~~ *liability* does not exceed the bond or other security devices posted by the licensee pursuant to K.S.A. 9-509, and amendments thereto.

(b) *In the event of the bankruptcy of the licensee, the permissible investments shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event of the bankruptcy of the licensee all persons whose money or monetary value is considered outstanding, even if such permissible investments are commingled with other assets of the licensee.*

Sec. 7. K.S.A. 2014 Supp. 9-2201 is hereby amended to read as follows: 9-2201. As used in this act:

(a) “Bona fide office” means an applicant’s or licensee’s principal place of business ~~which meets all of the following requirements~~ *with an office that*:

- (1) ~~The office~~ Is located in this state;
- (2) ~~the office~~ is not located in a personal residence;
- (3) ~~the office~~ has regular hours of operation;
- (4) ~~the office~~ is accessible to the public;
- (5) ~~the office~~ is leased or owned by the licensee and serves as an office for the transaction of the licensee’s mortgage business;
- (6) ~~the office~~ is separate from any office of another registrant; and
- (7) *is accessible to* all of the licensee’s books, records and documents ~~are accessible through that office.~~

(b) “Branch office” means a place of business, other than a principal place of business, where mortgage business is conducted; and which is licensed as required by this act.

(c) “Commissioner” means the ~~Kansas~~ state bank commissioner.

(d) “License” means a license issued by the commissioner to engage in mortgage business as a mortgage company.

(e) “Licensee” means a person who is licensed by the commissioner as a mortgage company.

(f) “Loan originator” means an individual:

(1) Who engages in mortgage business on behalf of a single mortgage company;

(2) whose conduct of mortgage business is the responsibility of the licensee;

(3) who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain or in the expectation of compensation or gain; and

(4) whose job responsibilities include contact with borrowers during the loan origination process, which can include soliciting, negotiating, acquiring, arranging or making mortgage loans for others, obtaining personal or financial information, assisting with the preparation of loan applications or other documents, quoting loan rates or terms; or providing required disclosures. It does not include any individual engaged solely as a loan processor or underwriter.

(g) “Loan processor or underwriter” means an individual who performs clerical or support duties as an employee at the direction and subject to the supervision and instruction of a person registered or exempt from registration under this act.

(1) For purposes of this subsection, the term “clerical or support duties” may include subsequent to the receipt of an application:

(A) The receipt, collection, distribution and analysis of information

common for the processing or underwriting of a residential mortgage loan; and

(B) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

(2) An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that such individual can or will perform any of the activities of a loan originator.

(h) “Nationwide mortgage licensing system and registry” means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the licensing and registration of licensed mortgage loan originators.

(i) “Mortgage business” means engaging in, or holding out to the public as willing to engage in, for compensation or gain, or in the expectation of compensation or gain, directly or indirectly, the business of making, originating, servicing, soliciting, placing, negotiating, acquiring, selling, or arranging for others, or offering to solicit, place, negotiate, acquire, sell or arrange for others, mortgage loans in the primary market.

(j) “Mortgage company” means a person engaged in mortgage business from a principal place of business or branch office, which has been licensed as required by this act.

(k) “Mortgage loan” means a loan or agreement to extend credit made to a natural person which is secured by a first or second mortgage, deed of trust, contract for deed or other similar instrument or document representing a security interest or lien, *except as provided for in K.S.A. 60-1101 through 60-1110, and amendments thereto*, upon any lot intended for residential purposes or a one-to-four family dwelling as defined in ~~section 103(v) of the truth in lending act~~, 15 U.S.C. § 1602~~(v)~~(w), located in this state, occupied or intended to be occupied for residential purposes by the owner, including the renewal or refinancing of any such loan.

(l) “Person” means any individual, sole proprietorship, corporation, partnership, trust, association, joint venture, pool syndicate, unincorporated organization or other form of entity, however organized.

(m) “Primary market” means the market wherein mortgage loans are originated between a lender and a borrower, whether or not through a mortgage broker or other means.

(n) “Principal place of business” means a licensed place of business where mortgage business is conducted, which has been designated by a

licensee as the primary headquarters from which all mortgage business and administrative activities are managed and directed.

(o) “Promotional items” means pens, pencils, hats and other such novelty items.

(p) “Registrant” means any individual who holds a valid registration to conduct mortgage business in this state as a loan originator.

(q) “Unique identifier” means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.

Sec. 8. K.S.A. 2014 Supp. 9-1111 is hereby amended to read as follows: 9-1111. The general business of every bank shall be transacted at the place of business specified in ~~its~~ *the bank's* certificate of authority and at one or more branch banks established and operated as provided in this section. Except for the establishment or operation of a trust branch bank or the relocation of an existing trust branch bank pursuant to K.S.A. 9-1135, and amendments thereto, it shall be unlawful for any bank to establish and operate any branch bank or relocate an existing branch bank except as hereinafter provided. Notwithstanding the provisions of this section, any location at which a depository institution, as defined by K.S.A. 9-701, and amendments thereto, receives deposits, renews time deposits, closes loans, services loans or receives payments on loans or other obligations, as agent, for a bank pursuant to ~~subsection (25) of~~ K.S.A. 9-1101(25), and amendments thereto, or other applicable state or federal law, or is authorized to open accounts or receive deposits under ~~subsection (28) of~~ K.S.A. 9-1101(28), and amendments thereto, shall not be deemed to be a branch bank:

(a) For the purposes of this section, the term “branch bank” means any office, agency or other place of business located within this state, other than the place of business specified in the bank’s certificate of authority, at which deposits are received, checks paid, money lent or trust authority exercised, if approval has been granted by the state bank commissioner, under K.S.A. 9-1602, and amendments thereto;

(b) establishment of a new branch or relocation of an existing branch for eligible banks:

(1) After first applying for and obtaining the approval of the commissioner, an eligible bank incorporated under the laws of this state, may establish and operate one or more branch banks or relocate an existing branch bank, anywhere within this state;

(2) the application shall include the nature of the banking business to be conducted at the proposed branch bank, the primary geographical area to be served by ~~it~~ *the proposed branch bank*, the personnel and office facilities to be provided at the proposed branch bank and other information the commissioner may require;

(3) the application shall include the name selected for the proposed

branch bank. The name selected for the proposed branch bank shall not be the name of any other bank or branch bank doing business within a 15 mile radius of the same city or town, nor shall the name selected be required to contain the name of the applicant bank. If the name selected for the proposed branch bank does not contain the name of the applicant bank, the branch bank shall provide in the public lobby of such branch bank, a public notice that ~~it~~ *such bank* is a branch bank of the applicant bank;

(4) the application shall include proof of publication of notice that the applicant bank intends to file or has filed an application to establish a branch bank or relocate an existing branch bank. The notice shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank. The notice shall be in the form prescribed by the commissioner and at a minimum shall contain the name and address of the applicant bank, the location of the proposed branch and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication;

(5) upon receipt of the application, and following expiration of the comment period, the commissioner may hold a hearing in the county in which the applicant bank seeks to operate the branch bank. The applicant shall publish notice of the time, date and place of such hearing in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank, not less than 10 nor more than 30 days prior to the date of the hearing, and proof of publication shall be filed with the commissioner. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the commissioner, or the commissioner's designee, in support of or in opposition to the branch bank. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner;

(6) if the commissioner determines a public hearing is not warranted, the commissioner shall approve or disapprove the application within 15 days after receipt of a complete application but not prior to the end of the comment period. If a public hearing is held, the commissioner shall approve or disapprove the application within 60 days after consideration of the complete application and the evidence gathered during the commissioner's investigation. The period for consideration of the application may be extended if the commissioner determines the application presents a significant supervisory concern. If the commissioner finds that:

(A) There is a reasonable probability of usefulness and success of the proposed branch bank; and

(B) the applicant bank's financial history and condition is sound, the new branch or relocation shall be granted, otherwise, ~~it~~ *the relocation* shall be denied;

(7) within 15 days after any final action of the commissioner approving or disapproving an application, the applicant, or any adversely affected or aggrieved person who provided written comments during the specified comment period, may request a hearing with the state banking board. Upon receipt of a timely request, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. Any decision of the state banking board is subject to review in accordance with the Kansas judicial review act;

(c) *the establishment of a new branch or relocation of an existing branch for banks which do not meet the definition of “eligible bank” shall require that:*

(1) After first applying for and obtaining the approval of the state banking board, a bank incorporated under the laws of this state, which does not meet the definition of “eligible bank,” may establish and operate one or more branch banks, or relocate an existing branch bank, anywhere within this state;

(2) an application under paragraph (1) of this subsection, to establish and operate a branch bank or to relocate an existing branch bank shall be in such form and contain such information as the rules and regulations of the state bank commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, shall provide;

~~(3) the application shall include~~ (A) Estimates of the annual income and expenses of the proposed branch bank, the annual volume of business to be transacted by it, the nature of the banking business to be conducted at the proposed branch bank, the primary geographical area to be served by it and the personnel and office facilities to be provided at the proposed branch bank;

~~(4) the application shall include~~ (B) the name selected for the proposed branch bank. The name selected for the proposed branch bank shall not be the name of any other bank or branch bank doing business within a 15 mile radius of the same city or town, nor shall the name selected be required to contain the name of the applicant bank. If the name selected for the proposed bank does not contain the name of the applicant bank, the branch bank shall provide in the public lobby of such branch bank, a public notice that it is a branch bank of the applicant bank; *and*

~~(5) the application shall include~~ (C) proof of publication of notice that applicant bank intends to file an application to establish a branch bank or relocate an existing branch bank. The notice shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank. The notice shall be in the form prescribed by the state banking board and at a minimum shall contain the name and address of the applicant bank, the location of the proposed branch and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a com-

ment period of not less than 10 days after the date of the second publication;

~~(6)~~(3) upon receipt of an application meeting the ~~above~~ requirements of *paragraph (2)*, and following the expiration of the comment period, within 60 days the state banking board may hold a hearing in the county in which the applicant bank seeks to establish and operate a branch bank. Notice of the time, date and place of such hearing if one is to be held shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank not less than 10 or more than 30 days prior to the date of the hearing, and proof of publication shall be filed with the commissioner. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the board in support of or in opposition to the application. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner and copies shall be furnished to the members of the state banking board not less than 10 days prior to the meeting of the board at which the application will be considered;

~~(7)~~(4) the state banking board shall approve or disapprove the application within 90 days after consideration of the application and the evidence gathered during the board's investigation. If the board finds that:

(A) There is a reasonable probability of usefulness and success of the proposed branch bank; and

(B) the applicant bank's financial history and condition is sound, the application shall be granted, otherwise; the application shall be denied; *and*

~~(8)~~(5) any final action of the board approving or disapproving an application shall be subject to review in accordance with the Kansas judicial review act upon the petition of the applicant or any adversely affected or aggrieved person who provided written comments during the specified comment period;

(d) any branch bank lawfully established and operating on the effective date of this act may continue to be operated by the bank then operating the branch bank and by any successor bank;

(e) branch banks which have been established and are being maintained by a bank at the time of ~~its~~ *the branch bank's* merger into or consolidation with another bank or at the time ~~its~~ *such branch bank's* assets are purchased and ~~its~~ *the branch bank's* liabilities are assumed by another bank may continue to be operated by the surviving, resulting or purchasing and assuming bank. The surviving, resulting or purchasing and assuming bank, with approval of the state bank commissioner, may establish and operate a branch bank or banks at the site or sites of the merged, constituent or liquidated bank or banks;

(f) any state bank or national banking association may provide and engage in banking transactions by means of remote service units wherever

located, which remote service units shall not be considered to be branch banks. Any banking transaction effected by use of a remote service unit shall be deemed to be transacted at a bank and not at a remote service unit;

(g) as a condition to the operation and use of any remote service unit in this state, a state bank or national banking association, each hereinafter referred to as a bank, which desires to operate or enable its customers to utilize a remote service unit must agree that such remote service unit will be available for use by customers of any other bank or banks upon the request of such bank or banks to share ~~its~~ *the remote service unit's* use and the agreement of such bank or banks to share all costs, including a reasonable return on capital expenditures incurred in connection with ~~its~~ *the remote service unit's* development, installation and operation. The owner of the remote service unit, whether a bank or any other person, shall make the remote service unit available for use by other banks and ~~their~~ *the bank's* customers on a nondiscriminatory basis, conditioned upon payment of a reasonable proportion of all costs, including a reasonable return on capital expenditures incurred in connection with the development, installation and operation of the remote service unit. Notwithstanding the foregoing provisions of this subsection, a remote service unit located on the property owned or leased by the bank where the principal place of business of a bank, or an attached auxiliary teller facility or branch bank of a bank, is located need not be made available for use by any other bank or banks or customers of any other bank or banks;

(h) for purposes of this section, "remote service unit" means an electronic information processing device, including associated equipment, structures and systems, through or by means of which information relating to financial services rendered to the public is stored and transmitted; ~~whether instantaneously or otherwise,~~ to a bank and which, for activation and account access, is dependent upon the use of a machine-readable instrument in the possession and control of the holder of an account with a bank *or is activated by a person upon verifiable personal identification.* The term shall include "online" computer terminals *that may be equipped with a telephone or televideo device that allows contact with bank personnel* and "offline" automated cash dispensing machines and automated teller machines, ~~but shall not include computer terminals or automated teller machines or automated cash dispensing machines using systems in which account numbers are not machine read and verified.~~ Withdrawals by means of "offline" systems shall not exceed \$300 per transaction and shall be restricted to individual not corporate or commercial accounts;

(i) for purposes of this section, "eligible bank" means a state bank that meets the following criteria:

(1) Received a composite rating of 1 or 2 under the uniform financial institutions rating system as a result of its most recent federal or state examination;

- (2) meets the following three criteria for a well capitalized bank:
  - (A) Has a total risk based capital ratio of 10% or greater;
  - (B) has a tier one risk based capital ratio of 6% or greater; and
  - (C) has a leverage ratio of 5% or greater; and
- (3) is not subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding or other administrative agreement with ~~its~~ *the bank's* primary federal regulator or the office of the state bank commissioner.

New Sec. 9. There is hereby established an enabling savings program and such program shall be known and may be cited as the Kansas ABLE savings program. The purpose of the Kansas ABLE savings program is to authorize the establishment of savings accounts empowering individuals with a disability and their families to save private funds to support the individual with a disability and to provide guidelines for the maintenance of such accounts.

New Sec. 10. As used in this act:

(a) "Account" or "ABLE savings account" means an individual savings account established in accordance with the provisions of this act.

(b) "Account owner" means the person who enters into an ABLE savings agreement pursuant to the provisions of this act. The account owner must also be the designated beneficiary. A conservator or guardian may be appointed as an account owner for a designated beneficiary who is a minor or lacks capacity to enter into an agreement.

(c) "Conservator" means a person appointed by the court pursuant to K.S.A. 59-3050 et seq., and amendments thereto.

(d) "Designated beneficiary" means a Kansas resident whose qualified disability expenses may be paid from the account. The designated beneficiary must be an eligible individual at the time the account is established. The account owner may change the designated beneficiary.

(e) "Eligible individual" means an individual who is entitled to benefits based on blindness or disability under 42 U.S.C. § 401 et seq. or 42 U.S.C. § 1381 et seq., as amended, and such blindness or disability occurred before the date on which the individual attained age 26, or an individual who filed a disability certification, to the satisfaction of the secretary, with the secretary for such taxable year.

(f) "Financial organization" means an organization authorized to do business in the state of Kansas and is:

- (1) Licensed or chartered by the commissioner of insurance;
- (2) licensed or chartered by the state bank commissioner;
- (3) chartered by an agency of the federal government; or
- (4) subject to the jurisdiction and regulation of the securities and exchange commission of the federal government.

(g) "Guardian" means a person appointed by the court pursuant to K.S.A. 59-3050 et seq., and amendments thereto.

(h) “Management contract” means the contract executed by the treasurer and a financial organization selected to act as a depository and manager of the program.

(i) “Member of the family” has the meaning ascribed thereto in section 529A of the federal internal revenue code of 1986, as amended.

(j) “Nonqualified withdrawal” means a withdrawal from an account which is not:

- (1) A qualified withdrawal; or
- (2) a rollover distribution.

(k) “Program” means the Kansas ABLE savings program established pursuant to this act.

(l) “Program manager” means a financial organization selected by the treasurer to act as a depository and manager of the program.

(m) “Qualified disability expense” means any qualified disability expense included in section 529A of the federal internal revenue code of 1986, as amended.

(n) “Qualified withdrawal” means a withdrawal from an account to pay the qualified disability expenses of the designated beneficiary of the account.

(o) “Rollover distribution” means a rollover distribution as defined in section 529A of the federal internal revenue code of 1986, as amended.

(p) “Savings agreement” means an agreement between the program manager or the treasurer and the account owner.

(q) “Secretary” means the secretary of the United States treasury.

(r) “Treasurer” means the state treasurer.

New Sec. 11. (a) The treasurer shall implement and administer the program under the terms and conditions established by this act. In furtherance of such implementation and administration, the treasurer shall have the authority and responsibility to:

(1) Develop and implement the program in a manner consistent with the provisions of this act;

(2) engage the services of consultants on a contract basis for rendering professional and technical assistance and advice;

(3) seek rulings and other guidance from the secretary and the federal internal revenue service relating to the program;

(4) make changes to the program required for the participants in the program to obtain the federal income tax benefits or treatment provided by section 529A of the federal internal revenue code of 1986, as amended;

(5) charge, impose and collect administrative fees and service charges in connection with any agreement, contract or transaction relating to the program;

(6) develop marketing plans and promotion material;

(7) establish the methods by which the funds held in accounts shall be dispersed;

(8) establish the method by which funds shall be allocated to pay for administrative costs;

(9) do all things necessary and proper to carry out the purposes of this act;

(10) promulgate rules and regulations necessary to effectuate the provisions of this act;

(11) make an annual evaluation of the ABLE savings program and prepare an annual report of such evaluation to be provided to the governor, the senate and the house of representatives; and

(12) notify the secretary when an account has been opened for a designated beneficiary and submit other reports concerning the program required by the secretary.

(b) The treasurer may enter into agreements with other states to either allow Kansas residents to participate in a plan operated by another state or to allow residents of other states to participate in the Kansas ABLE program.

New Sec. 12. (a) The treasurer may implement the program through use of financial organizations as account depositories and managers. The treasurer may solicit proposals from financial organizations to act as depositories and managers of the program. Financial organizations submitting proposals shall describe the investment instruments which will be held in accounts. The treasurer may select more than one financial organization and investment instrument for the program. The treasurer shall select as program depositories and managers the financial organization, from among the bidding financial organizations, that demonstrates the most advantageous combination, both to potential program participants and this state, of the following factors:

(1) Financial stability and integrity of the financial organization;

(2) the safety of the investment instrument being offered;

(3) the ability of the financial organization to satisfy recordkeeping and reporting requirements;

(4) the financial organization's plan for promoting the program and the investment the organization is willing to make to promote the program;

(5) the fees, if any, proposed to be charged to the account owners;

(6) the minimum initial deposit and minimum contributions that the financial organization will require;

(7) the ability of the financial organization to accept electronic withdrawals, including payroll deduction plans; and

(8) other benefits to the state or its residents included in the proposal, including fees payable to the state to cover expenses of operation of the program.

(b) The treasurer may enter into any contracts with a financial organization necessary to effectuate the provisions of this act. Any manage-

ment contract shall include, at a minimum, terms requiring the financial organization to:

(1) Take any action required to keep the program in compliance with requirements of this act and any actions not contrary to its contract to manage the program to qualify as a “qualified ABLE program” as defined in section 529A of the federal internal revenue code of 1986, as amended;

(2) keep adequate records of each account, keep each account segregated from each other account and provide the treasurer with the information necessary to prepare the statements required by section 13, and amendments thereto;

(3) compile and total information contained in statements required to be prepared under section 13, and amendments thereto, and provide such compilations to the treasurer;

(4) if there is more than one program manager, provide the treasurer with such information as is necessary to determine compliance with section 13, and amendments thereto;

(5) provide the treasurer with access to the books and records of the program manager to the extent needed to determine compliance with the contract, this act, and section 529A of the federal internal revenue code of 1986, as amended;

(6) hold all accounts for the benefit of the account owner or owners;

(7) be audited at least annually by a firm of certified public accountants selected by the program manager and provide the results of such audit to the treasurer;

(8) provide the treasurer with copies of all regulatory filings and reports made by the financial organization during the term of the management contract or while the financial organization is holding any accounts, other than confidential filings or reports that will not become part of the program. The program manager shall make available for review by the treasurer the results of any periodic examination of such manager by any state or federal banking, insurance or securities commission, except to the extent that such report or reports may not be disclosed under law; and

(9) ensure that any description of the program, whether in writing or through the use of any media, is consistent with the marketing plan developed pursuant to the provisions of this act.

(c) The treasurer may:

(1) Enter into such contracts as it deems necessary and proper for the implementation of the program;

(2) require that an audit be conducted of the operations and financial position of the program depository and manager at any time if the treasurer has any reason to be concerned about the financial position, the recordkeeping practices or the status of accounts of such program depository and manager; and

(3) terminate or not renew a management agreement. If the treasurer

terminates or does not renew a management agreement, the treasurer shall take custody of accounts held by such program manager and shall seek to promptly transfer such accounts to another financial organization that is selected as a program manager or depository and into investment instruments as similar to the original instruments as possible.

(d) The treasurer, the department for children and families, the department of health and environment and the department for aging and disability services are authorized to exchange data regarding eligible individuals to carry out the purposes of this act.

New Sec. 13. (a) Any ABLE savings accounts established pursuant to the provisions of this act shall be opened by a designated beneficiary or a conservator or guardian of a designated beneficiary who lacks capacity to enter into a contract and each beneficiary may have only one account. The treasurer may establish a nonrefundable application fee. An application for such account shall be in the form prescribed by the treasurer and contain the:

- (1) Name, address and social security number of the account owner;
- (2) name, address and social security number of the designated beneficiary, if the account owner is the beneficiary's conservator or guardian;
- (3) certification relating to no excess contributions; and
- (4) additional information as the treasurer may require.

(b) Any person may make contributions to an ABLE savings account after the account is opened, subject to the limitations imposed by section 529A of the federal internal revenue code of 1986, as amended, or any rules and regulations promulgated by the secretary pursuant to this act.

(c) Contributions to ABLE savings accounts only may be made in cash. The treasurer or program manager shall reject or promptly withdraw contributions:

- (1) In excess of the limits established pursuant to subsection (b); or
- (2) the total contributions if the:
  - (A) Value of the account is equal to or greater than the account maximum established by the treasurer. Such account maximum must be equal to the account maximum for postsecondary education savings accounts established pursuant to K.S.A. 75-640 et seq., and amendments thereto;

or

(B) designated beneficiary is not an eligible individual in the current calendar year.

(d) (1) An account owner may:

(A) Change the designated beneficiary of an account to an individual who is a member of the family of the prior designated beneficiary in accordance with procedures established by the treasurer; and

(B) transfer all or a portion of an account to another ABLE savings account, the designated beneficiary of which is a member of the family

as defined in section 529A of the federal internal revenue code of 1986, as amended.

(2) No account owner may use an interest in an account as security for a loan. Any pledge of an interest in an account shall be of no force and effect.

(e) (1) If there is any distribution from an account to any individual or for the benefit of any individual during a calendar year, such distribution shall be reported to the federal internal revenue service and each account owner, the designated beneficiary or the distributee to the extent required by state or federal law.

(2) Statements shall be provided to each account owner at least four times each year within 30 days after the end of the three-month period to which a statement relates. The statement shall identify the contributions made during the preceding three-month period, the total contributions made to the account through the end of the period, the value of the account at the end of such period, distributions made during such period and any other information that the treasurer shall require to be reported to the account owner.

(3) Statements and information relating to accounts shall be prepared and filed to the extent required by this act and any other state or federal law.

(f) (1) The program shall provide separate accounting for each designated beneficiary. An annual fee may be imposed upon the account owner for the maintenance of an account.

(2) Moneys in an ABLE savings account:

(A) Shall be exempt from attachment, execution or garnishment as provided by K.S.A. 60-2308, and amendments thereto; and

(B) may be claimed by the Kansas medicaid plan only after the death of the designated beneficiary subject to limitations imposed by the secretary.

New Sec. 14. (a) Nothing in this act shall create or be construed to create any obligation of the treasurer, the state or any agency or instrumentality of the state to guarantee for the benefit of any account owner or designated beneficiary with respect to the:

(1) Return of principal;

(2) rate of interest or other return on any account; or

(3) payment of interest or other return on any account.

(b) The treasurer may promulgate rules and regulations to provide that every contract, application or other similar document that may be used in connection with opening an account clearly indicates that the account is not insured by the state and that the principal deposited and the investment return are not guaranteed by the state.

New Sec. 15. (a) The Kansas ABLE savings program trust fund is hereby established in the state treasury. The fund shall be utilized if the

treasurer elects to accept deposits from contributors rather than have deposits sent directly to the program manager. Such fund shall consist of any moneys deposited by contributors in accordance with this act which are not deposited directly with the program manager. All interest derived from the deposit and investment of moneys in such savings trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in such savings trust fund shall remain therein and not be credited or transferred to the state general fund or to any other fund.

(b) (1) The Kansas ABLE savings expense fund is hereby established in the state treasury. The fund shall consist of moneys received from the ABLE savings program manager, or any governmental or private grants and any state general fund appropriations, if any, for the program.

(2) All expenses incurred by the treasurer in developing and administering the ABLE savings program shall be payable from the Kansas ABLE savings expense fund.

Sec. 16. K.S.A. 2014 Supp. 9-508, 9-509, 9-510, 9-511, 9-513a , 9-513b, 9-1111 and 9-2201 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 15, 2015.

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## CHAPTER 34

### HOUSE BILL No. 2259

AN ACT concerning municipal finance; relating to temporary notes for improvements, indebtedness reporting; amending K.S.A. 10-123 and 10-1007a and repealing the existing sections.

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

Section 1. K.S.A. 10-1007a is hereby amended to read as follows: 10-1007a. (a) The clerk, secretary or other recording officer of each municipality shall furnish to the county clerk, on or before July 31 of each year, to the county clerk a statement of the indebtedness of the municipality for the preceding year ending on June 30. For school districts, such statement shall be furnished to the county clerk of the home county, and. For other municipalities which extend into more than one county, such statement shall be furnished to the county clerk of the county in which the greatest amount of the territory of the municipality is located unless a different county clerk is specified by the state treasurer. Such statement shall show the following include the dollar amount of:

(1) The amount of its municipality's bonded indebtedness, with the

date of ~~issue~~ *issuance* and date of maturity of all outstanding bonds; and specification as to each whether ~~it~~ *such bond* is a general obligation bond or revenue bond, including industrial revenue bonds, and the statutory authority under which each was issued;

(2) ~~the amount of~~ temporary notes outstanding with the date of issuing and date of maturity ~~thereof, together with~~ *of such notes and* the statutory authority under which the same were issued; *and*

(3) ~~The amount of~~ no-fund warrants outstanding and the date of maturity thereof, together with the statutory authority under which the same were issued.

(b) On or before ~~July~~ *August* 15 of each year, the county clerk of each county shall compile *and transmit to the state treasurer*, on forms prescribed by the state treasurer, the information on the statements furnished under subsection (a), including such information ~~as that pertains~~ to the county, ~~and transmit the same to the state treasurer~~. *On or before September 30 of each year, the state treasurer shall make the information on the statements available on the state treasurer's internet website.*

Sec. 2. K.S.A. 10-123 is hereby amended to read as follows: 10-123. (a) (1) If a municipality has approved an improvement for which ~~it~~ *the municipality* is authorized to finance, in whole or in part, by the issuance of bonds, the governing body of the municipality may issue temporary notes, ~~bearing that:~~

(A) *Bear* interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto;

(B) *are* payable in accordance with the terms of the notes;

(C) ~~maturing~~ *mature* not later than four years from the date of the notes; and

(D) ~~do not exceeding~~ *exceed*, in the aggregate, the amount of bonds which may be issued and are then unissued, as shown by the approved estimates on file.

(2) If bonds may be issued; for purposes for which state or federal aid is available, the amount of the notes shall not exceed the total amount of any unissued bonds and the state and federal aid granted to the project. Any municipality may issue renewal temporary notes to pay for the cost of taking up any previously issued temporary notes ~~as they~~ *the notes* mature when:

(A) All aspects of the improvement will not be completed at the maturity date of the notes; or

(B) ~~when~~ the municipality has completed the improvements and the issuance of bonds is prevented, hindered or delayed.

(b) (1) The temporary notes shall be in a form determined by ordinance or resolution; *that are* acceptable for registration by the state treasurer. ~~The entire temporary note shall be contained on one sheet of paper.~~ The notes shall be executed and registered in the same manner as

the bonds; and shall be redeemed and canceled before or at the time permanent bonds are issued in lieu thereof. ~~The amount of temporary notes and bonds issued and outstanding shall not at any time exceed the estimated cost and expense of the improvement.~~ Temporary notes may be retired, in whole or in part, from current revenues of the municipality authorized for such purpose.

(2) The temporary notes:

(A) May be issued from time to time, as required during the progress of the work;

(B) shall be negotiable in accordance with ~~their~~ *the terms of the notes*; and

(C) shall constitute a general obligation of the municipality issuing the same.

(3) The temporary notes shall not be negotiable in accordance with ~~their~~ *the terms of the notes until the notes are signed, registered and then countersigned, following registration*, by the clerk of the issuing municipality; and *include* a statement to that effect ~~shall appear~~ on the face of all such temporary notes.

(4) The temporary notes may be sold in the manner determined by the municipality.

*(c) The amount of temporary notes and bonds issued and outstanding shall not, at any time, exceed the estimated cost and expense of the improvement.*

Sec. 3. K.S.A. 10-123 and 10-1007a 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 15, 2015.

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## CHAPTER 35

### SENATE BILL No. 124

AN ACT concerning the department of health and environment; relating to radioactive materials; by-product material; low-level radioactive waste; naturally occurring radioactive material; water and soil pollution; solid waste disposal; land-spreading of drilling waste; amending K.S.A. 48-1603 and 48-1620 and K.S.A. 2014 Supp. 65-171d and 65-3407c and repealing the existing sections.

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

Section 1. K.S.A. 48-1603 is hereby amended to read as follows: 48-1603. As used in this act:

(a) “By-product material” means: (1) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to

the radiation incident to the process of producing or utilizing special nuclear material; ~~and~~

(2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content;

(3) (A) *any discrete source of radium-226 that is produced, extracted or converted after extraction for use for a commercial, medical or research activity; or*

(B) *any material that:*

(i) *Has been made radioactive by use of a particle accelerator; and*

(ii) *is produced, extracted or converted after extraction for use for a commercial, medical or research activity; or*

(4) *any discrete source of naturally occurring radioactive material, other than source material, that:*

(A) *The secretary declares by order would pose a threat to the public health and safety or the common defense and security similar to the threat posed by a discrete source of radium-226 after the United States nuclear regulatory commission, or any successor thereto, determines the same; and*

(B) *is extracted or converted after extraction for use in a commercial, medical or research activity.*

(b) “Department” means the Kansas department of health and environment.

(c) “Civil penalty” means any monetary penalty levied on a licensee or registrant because of violations of statutes, regulations, licenses or registration certificates, but does not include criminal penalties.

(d) “Closure” or “site closure” means all activities performed at a waste disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance and monitoring are necessary at the site following termination of licensed operation.

(e) “Decommissioning” means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material and to carry out any other activities to prepare the site for postoperational care.

(f) “Disposal of low-level radioactive waste” means the isolation of such waste from the biosphere.

(g) “Electronic product” means any manufactured or assembled: (1) Product which, when in operation, contains or acts as part of an electronic circuit and emits, or in the absence of effective shielding or other controls would emit, electronic product radiation; ~~or any manufactured or assembled~~ (2) article which is intended for use as a component part, or accessory of a product described in this subsection and which in operation emits, or in the absence of effective shielding or other controls would emit, such radiation.

(h) “Electronic product radiation” means any ionizing or nonionizing, electromagnetic or particulate radiation, or any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product.

(i) “General license” means a license effective pursuant to rules and regulations promulgated by the secretary of health and environment, without the filing of an application to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing by-product, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(j) “High-level radioactive waste” means: (1) Irradiated reactor fuel; (2) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for uranium processing irradiated reactor fuel; and (3) solids into which such liquid wastes have been converted.

(k) “Low-level radioactive waste” means radioactive waste not classified as:

(1) *NORM waste or TENORM waste at concentrations and from sources established in rules and regulations adopted by the secretary on or before July 1, 2016;*

(2) high-level radioactive waste;;

(3) transuranic waste;;

(4) spent nuclear fuel; or

(5) by-product material as defined in subsection (a)(2).

(l) “Person” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or any other state or political subdivision or agency thereof, and any legal successor, representative, agency, or agency of the foregoing, other than the United States nuclear regulatory commission, or any successor thereto, and other than federal government agencies licensed by the United States nuclear regulatory commission, or any successor thereto.

(m) “Radiation” means: (1) Ionizing radiation including gamma rays, X-rays, alpha particles, beta particles, and including neutrons; (2) any electromagnetic radiation other than ionizing radiation which is generated during the operation of an electronic product; or (3) any sonic, ultrasonic, or infrasonic wave which is emitted from an electronic product as a result of the operation of an electronic circuit in such product.

(n) “Radioactive material” means any material, solid, liquid or gas, which emits ionizing radiation spontaneously. It includes accelerator produced, by-product, naturally occurring, source and special nuclear materials.

(o) “Secretary” means the secretary of the Kansas department of health and environment.

(p) “Source material” means: (1) Uranium, thorium, or any other material which the secretary declares by order to be source material after the United States nuclear regulatory commission, or any successor thereto, has determined the material to be such; or (2) ores containing one or more of the foregoing materials, in such concentration as the secretary declares by order to be source material after the United States nuclear regulatory commission, or any successor thereto, has determined the material in such concentration to be source material.

(q) “Source material mill tailings” means the tailings or waste produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes but not including underground ore bodies depleted by such solution extraction process.

(r) “Source material milling” means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material mill tailings.

(s) “Sources of radiation” means, collectively, radioactive material and radiation generating equipment.

(t) “Special nuclear material” means: (1) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the secretary declares by order to be special nuclear material after the United States nuclear regulatory commission, or any successor thereto, has determined the material to be such, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(u) “Specific license” means a license issued after application, to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of, or devices or equipment utilizing by-product, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(v) “Spent nuclear fuel” means irradiated nuclear fuel that has undergone at least one year’s decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, by-product material, source material and other radioactive material associated with fuel assemblies.

(w) “Transuranic waste” means radioactive waste containing alpha emitting transuranic elements, with radioactive half-lives greater than five years, in excess of 10 nanocuries per gram.

(x) “*Naturally occurring radioactive material*” or “*NORM*” means any nuclide that is radioactive in the nuclide’s natural physical state. “*NORM*” does not include accelerator produced, by-product, source or special nuclear material.

(y) “NORM waste” means solid waste as defined in K.S.A. 65-3402, and amendments thereto, that is contaminated with NORM.

(z) “Technologically enhanced NORM” or “TENORM” means NORM whose radionuclide concentrations are increased by or as a result of past or present human practices. “TENORM” does not include accelerator produced, by-product, source or special nuclear material.

(aa) “TENORM waste” means solid waste as defined in K.S.A. 65-3402, and amendments thereto, that is contaminated with TENORM.

Sec. 2. K.S.A. 48-1620 is hereby amended to read as follows: 48-1620. ~~The hazardous waste disposal facility approval board~~ *secretary* shall review and grant or deny final approval for each low-level radioactive waste disposal facility license in the same manner as provided in K.S.A. 65-3433 et seq., and amendments thereto. ~~The board~~ *secretary* shall not approve any such license which would permit the disposal of low-level radioactive waste below the natural level of the disposal site unless the ~~board~~ *secretary*, subject to legislative approval, has determined that below grade disposal provides greater protection than above grade disposal for the environment and public health for the period of time for which such low-level radioactive waste may continue to pose a hazard to the environment and public health.

Sec. 3. K.S.A. 2014 Supp. 65-3407c is hereby amended to read as follows: 65-3407c. (a) The secretary may authorize persons to carry out the following activities without a solid waste permit issued pursuant to K.S.A. 65-3407, and amendments thereto:

(1) Dispose of solid waste at a site where the waste has been accumulated or illegally dumped. Disposal of some or all such waste must be identified as an integral part of a site cleanup and closure plan submitted to the department by the person responsible for the site. No additional waste may be brought to the site following the department’s approval of the site cleanup and closure plan.

(2) Perform temporary projects to remediate soils contaminated by organic constituents capable of being reduced in concentration by biodegradation processes or volatilization, or both. Soil to be treated may be generated on-site or off-site. A project operating plan and a site closure plan must be submitted to the department as part of the project approval process.

(3) Dispose of demolition waste resulting from demolition of an entire building or structure if such waste is disposed of at, adjacent to or near the site where the building or structure was located. Prior to the department’s authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site. The disposal area must be covered with a minimum of two feet of soil and seeded, rocked or paved. The final grades for the disposal site must be compatible with and not

detract from the appearance of adjacent properties. In addition to the factors listed in subsection (b), the secretary shall consider the following when evaluating requests for off-site disposal of demolition waste:

(A) Public safety concerns associated with the building or structure proposed to be demolished.

(B) Proposed plans to redevelop the building site which would be impacted by on-site disposal of debris.

(C) The disposal capacity of any nearby permitted landfill.

(4) Dispose of solid waste generated as a result of a transportation accident if such waste is disposed of on property adjacent to or near the accident site. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site. A closure plan must be submitted to the department as part of the authorization process.

(5) Dispose of whole unprocessed livestock carcasses on property at, adjacent or near where the animals died if: (A) Such animals died as a result of a natural disaster or their presence has created an emergency situation; and (B) proper procedures are followed to minimize threats to human health and the environment. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site.

(6) Dispose of solid waste resulting from natural disasters, such as storms, tornadoes, floods and fires, or other such emergencies, when a request for disposal is made by the local governmental authority having jurisdiction over the area. Authorization shall be granted by the department only when failure to act quickly could jeopardize human health or the environment. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site. The local governmental authority must agree to provide proper closure and postclosure maintenance of the disposal site as a condition of authorization.

(7) Store solid waste resulting from natural disasters, such as storms, tornadoes, floods and fires, or other such emergencies, at temporary waste transfer sites, when a request for storage is made by the local governmental authority having jurisdiction over the area. Authorization shall be granted by the department only when failure to act quickly could jeopardize human health or the environment. Prior to the department's authorization, written approval for the storage must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the storage site. The local governmental authority must agree to provide proper closure of the storage and transfer site as a condition of authorization.

(8) (A) Dispose of solid waste generated by drilling oil and gas wells by land-spreading in accordance with best management practices and maximum loading rates ~~developed~~ *established in rules and regulations adopted by the secretary and published on the department website.*

(B) For any area that annually receives more than 25 inches of precipitation, as determined by the department, any solid waste disposed of by land-spreading shall be incorporated into the soil. No land-spreading shall occur on any area where the water table is less than 10 feet or on any area where there is documented groundwater contamination as determined by the department.

(C) (i) Each separate land-spreading location shall require submission of an application to land-spread drilling waste, complete with all information required on the application form developed by the secretary. The contents of the application form shall include, but are not limited to, the land-spreading location, soil characteristics, waste characteristics, waste volumes, drilling mud additives, land-spreading method and post-land-spreading report. A separate land-spreading application and a post-land-spreading report shall be submitted for each location.

(ii) For the purposes of protecting the health, safety and property of the people of the state, and preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, a land-spreading application may not be approved for the same location unless a minimum of three years has passed since the previous land spreading occurred.

(iii) A fee of \$250 shall be paid to the state corporation commission with each drilling waste land-spreading application. The fee shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto, to be credited to the conservation fee fund.

(D) The secretary and the state corporation commission shall enter into a memorandum of agreement for the purposes of:

(i) Administering the land-spreading application and approval process;

(ii) monitoring compliance; and

(iii) establishing mechanisms for enforcement and remedial actions.

(E) *The seller of any property where land-spreading has occurred within the previous three years pursuant to this paragraph shall disclose such land-spreading and the date thereof to any potential purchaser of such property prior to closing.*

(F) On or before January 1, 2014, the secretary, in coordination with the state corporation commission, shall adopt rules and regulations governing land-spreading of waste generated by drilling oil and gas wells. In developing such rules and regulations, the secretary and the state corporation commission shall seek advice and comments from groundwater management districts and other groups or persons knowledgeable and experienced in areas related to this paragraph.

~~(F) On or before January 30, 2013 and 2014, the state corporation commission shall present a report to the senate standing committees on natural resources and ways and means and to the house standing committees on agriculture and natural resources and appropriations. Such report shall include, but not be limited to, information concerning the implementation and status of land-spreading procedures and the costs associated with the regulation of land-spreading pursuant to this paragraph.~~

*(G) The provisions of this paragraph shall expire on July 1, 2015. On or before January 30 of each year, the state corporation commission, in coordination with the Kansas department of health and environment, shall present a report to the senate standing committees on natural resources, utilities and ways and means and to the house standing committees on agriculture and natural resources, energy and environment and appropriations. Such report shall include, but not be limited to, information concerning the implementation and status of land-spreading procedures and the costs associated with the regulation of land-spreading pursuant to this paragraph.*

(b) The secretary shall consider the following factors when determining eligibility for an exemption to the solid waste permitting requirements under this section:

- (1) Potential impacts to human health and the environment.
- (2) Urgency to perform necessary work.
- (3) Costs and impacts of alternative waste handling methods.
- (4) Local land use restrictions.
- (5) Financial resources of responsible parties.
- (6) Technical feasibility of proposed project.
- (7) Technical capabilities of persons performing proposed work.

(c) The secretary may seek counsel from local government officials prior to exempting activities from solid waste permitting requirements under this section.

Sec. 4. K.S.A. 2014 Supp. 65-171d is hereby amended to read as follows: 65-171d. (a) For the purpose of preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, and to protect designated uses of the waters of the state and to require the treatment of sewage predicated upon technologically based effluent limitations, the secretary of health and environment shall make such rules and regulations, including registration of potential sources of pollution, as may in the secretary's judgment be necessary to: (1) Protect the soil and waters of the state from pollution resulting from underground storage of liquid petroleum gas and hydrocarbons, other than underground porosity storage of natural gas; (2) control the disposal, discharge or escape of sewage as defined in K.S.A. 65-164, and amendments thereto, by or from municipalities, corporations,

companies, institutions, state agencies, federal agencies or individuals and any plants, works or facilities owned or operated, or both, by them; and (3) establish water quality standards for the waters of the state to protect their designated uses, *including establishment of water quality standards variances that may apply to specified pollutants, permittees, or waterbody segments that reflect the highest attainable condition during the specified time period for the variance.* In no event shall the secretary's authority be interpreted to include authority over the beneficial use of water, water quantity allocations, protection against water use impairment of a beneficial use, or any other function or authority under the jurisdiction of the Kansas water appropriation act, K.S.A. 82a-701, and amendments thereto.

(b) The secretary of health and environment may adopt by reference any regulation relating to water quality and effluent standards promulgated by the federal government pursuant to the provisions of the federal clean water act, and amendments thereto, as in effect on January 1, 1989, which the secretary is otherwise authorized by law to adopt.

(c) For the purposes of this act, including K.S.A. 65-161 through 65-171h and K.S.A. 65-1,178 through 65-1,198, and amendments thereto, and rules and regulations adopted pursuant thereto:

(1) "Pollution" means: (A) Such contamination or other alteration of the physical, chemical or biological properties of any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to the plant, animal or aquatic life of the state or to other designated uses; or (B) such discharge as will or is likely to exceed state effluent standards predicated upon technologically based effluent limitations.

(2) "Confined feeding facility" means any lot, pen, pool or pond: (A) Which is used for the confined feeding of animals or fowl for food, fur or pleasure purposes; (B) which is not normally used for raising crops; and (C) in which no vegetation intended for animal food is growing.

(3) "Animal unit" means a unit of measurement calculated by adding the following numbers: The number of beef cattle weighing more than 700 pounds multiplied by 1.0; plus the number of cattle weighing less than 700 pounds multiplied by 0.5; plus the number of mature dairy cattle multiplied by 1.4; plus the number of swine weighing more than 55 pounds multiplied by 0.4; plus the number of swine weighing 55 pounds or less multiplied by 0.1; plus the number of sheep or lambs multiplied by 0.1; plus the number of horses multiplied by 2.0; plus the number of turkeys multiplied by 0.018; plus the number of laying hens or broilers, if the facility has continuous overflow watering, multiplied by 0.01; plus the number of laying hens or broilers, if the facility has a liquid manure system, multiplied by 0.033; plus the number of ducks multiplied by 0.2. However, each head of cattle will be counted as one full animal unit for the purpose of determining the need for a federal permit. "Animal unit" also includes the number of swine weighing 55 pounds or less multiplied

by 0.1 for the purpose of determining applicable requirements for new construction of a confined feeding facility for which a permit or registration has not been issued before January 1, 1998, and for which an application for a permit or registration and plans have not been filed with the secretary of health and environment before January 1, 1998, or for the purpose of determining applicable requirements for expansion of such facility. Except as otherwise provided, animal units for public livestock markets shall be determined by using the average annual animal units sold by the market during the past five calendar years divided by 365. Such animal unit determination may be adjusted by the department if the public livestock market submits documentation that demonstrates that such adjustment is appropriate based on the amount of time in 24-hour increments or partials thereof that animals are at the market.

(4) “Animal unit capacity” means the maximum number of animal units which a confined feeding facility is designed to accommodate at any one time.

(5) “Habitable structure” means any of the following structures which is occupied or maintained in a condition which may be occupied and which, in the case of a confined feeding facility for swine, is owned by a person other than the operator of such facility: A dwelling, church, school, adult care home, medical care facility, child care facility, library, community center, public building, office building or licensed food service or lodging establishment.

(6) “Wildlife refuge” means Cheyenne Bottoms wildlife management area, Cheyenne Bottoms preserve and Flint Hills, Quivera, Marais des Cygnes and Kirwin national wildlife refuges.

(d) In adopting rules and regulations, the secretary of health and environment, taking into account the varying conditions that are probable for each source of sewage and its possible place of disposal, discharge or escape, may provide for varying the control measures required in each case to those the secretary finds to be necessary to prevent pollution. If a freshwater reservoir or farm pond is privately owned and where complete ownership of land bordering the reservoir or pond is under common private ownership, such freshwater reservoir or farm pond shall be exempt from water quality standards except as it relates to water discharge or seepage from the reservoir or pond to waters of the state, either surface or groundwater, or as it relates to the public health of persons using the reservoir or pond or waters therefrom.

(e) (1) Whenever the secretary of health and environment or the secretary’s duly authorized agents find that storage or disposal of salt water not regulated by the state corporation commission or refuse in any surface pond not regulated by the state corporation commission is causing or is likely to cause pollution of soil or waters of the state, the secretary or the secretary’s duly authorized agents shall issue an order prohibiting such storage or disposal of salt water or refuse. Any person aggrieved by such

order may within 15 days of service of the order request in writing a hearing on the order.

(2) Upon receipt of a timely request, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(3) Any action of the secretary pursuant to this subsection is subject to review in accordance with the Kansas judicial review act.

(f) The secretary may adopt rules and regulations establishing fees for plan approval, monitoring and inspecting underground or buried petroleum products storage tanks, for which the annual fee shall not exceed \$5 for each tank in place.

(g) (1) Prior to any new construction of a confined feeding facility with an animal unit capacity of 300 or more, such facility shall register with the secretary of health and environment. Such registration shall be accompanied by a \$25 fee. The secretary shall acknowledge the receipt of the registration in a form as designated by the secretary and publish a notice of such receipt.

(2) Such registration shall indicate that the proposed construction will occur within the prescribed tract of land and that the separation distances from the tract boundaries or proposed facility footprint comply with the requirements described in subsections (j), (l) and (m) or exceptions described in (k).

(3) Within 30 days of receipt of such registration, the department of health and environment shall identify any significant water pollution potential or separation distance violations pursuant to subsection (j).

(A) (i) If the proposed facility has an animal unit capacity of 1,000 or more, or if there is identified a significant water pollution potential for a facility of less than 1,000 but more than 300, such facility shall be required to obtain a permit from the secretary.

(ii) If there is no identified water pollution potential posed by a facility with an animal unit capacity of 300 or more but less than 1,000, the secretary shall certify that no permit is required.

(B) If the secretary certifies that no permit is necessary pursuant to subsection (g)(3)(A)(ii), the secretary shall take the following action in regard to separation distances of such facility:

(i) If the separation distances comply with the requirements for separation distances, the secretary shall certify the registration; or

(ii) if the separation distances do not comply with the requirements for separation distances, the secretary:

(a) May reduce the separation distance requirements pursuant to subsection (k) and certify the registration based on such reduction of separation distances; or

(b) shall report the conditions necessary to receive certification to the registrant.

(h) (1) Facilities with a capacity of less than 300 animal units may

register with the secretary of health and environment. Such registration shall be accompanied by a \$25 fee.

(2) Within 30 days of receipt of such registration, the department of health and environment shall identify any significant water pollution potential. If there is identified a significant water pollution potential, such facility shall be required to obtain a permit from the secretary. If there is no water pollution potential posed by such facility, the secretary may certify that no permit is required.

(i) (1) If a facility requires a permit pursuant to subsection (g)(3) or (h)(2), the registrant shall submit an application for such permit not later than 18 months after the date of receipt of registration or the registration shall expire.

(2) Upon petition by the registrant, the secretary may extend the application period, by no more than an additional 18 months, if the secretary believes such an extension is reasonable under the circumstances.

(3) Within 30 days of receipt of an application, the secretary shall notify the registrant of whether the application is complete or incomplete. If the application is incomplete, such notice shall state the reasons why such application is incomplete. Once such registrant submits an application properly addressing each reason listed as a basis for the determination that the application is incomplete, the secretary shall issue an acknowledgment of receipt of the completed application within 30 days of properly addressing such reasons.

(4) Upon expiration of the application period or any extension thereof, the secretary shall not accept any further registrations pertaining to the same location for a period of not less than 180 days.

(j) (1) Any new construction or new expansion of a confined feeding facility, other than a confined feeding facility for swine, shall meet or exceed the following requirements in separation distances from any habitable structure in existence when the registration is received:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999; and

(B) 4,000 feet for facilities with an animal unit capacity of 1,000 or more.

(2) A confined feeding facility for swine shall meet or exceed the following requirements in separation distances from any habitable structure or city, county, state or federal park in existence when the registration is received:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999;

(B) 4,000 feet for facilities with an animal unit capacity of 1,000 to 3,724;

(C) 4,000 feet for expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion is within the perimeter from which separation distances are determined pursuant to subsection (m) for the existing facility; and

(D) 5,000 feet for: (i) Construction of new facilities with an animal unit capacity of 3,725 or more; or (ii) expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion extends outside the perimeter from which separation distances are determined pursuant to subsection (m) for the existing facility.

(3) Any construction of new confined feeding facilities for swine shall meet or exceed the following requirements in separation distances from any wildlife refuge:

(A) 10,000 feet for facilities with an animal unit capacity of 1,000 to 3,724; and

(B) 16,000 feet for facilities with an animal unit capacity of 3,725 or more.

(k) (1) The separation distance requirements of subsections (j)(1) and (2) shall not apply if the registrant obtains a written agreement from all owners of habitable structures which are within the separation distance stating such owners are aware of the construction or expansion and have no objections to such construction or expansion. The written agreement shall be filed in the register of deeds office of the county in which the habitable structure is located.

(2) (A) The secretary may reduce the separation distance requirements of subsection (j)(1) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to public notice; or (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances.

(B) The secretary may reduce the separation distance requirements of subsection (j)(2)(A) or (B) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (n); (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances; or (iii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(C) The secretary may reduce the separation distance requirements of subsection (j)(2)(C) or (D) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (l); or (ii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(l) (1) The separation distances required pursuant to subsection (j)(1) shall not apply to:

(A) Confined feeding facilities which were permitted or certified by the secretary on July 1, 1994;

(B) confined feeding facilities which existed on July 1, 1994, and registered with the secretary before July 1, 1996; or

(C) expansion of a confined feeding facility, including any expansion for which an application was pending on July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000 or more prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion; or (ii) in the case of a facility with an animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion and the animal unit capacity of the facility after expansion does not exceed 2,000.

(2) The separation distances required pursuant to subsections (j)(2)(A) and (B) shall not apply to:

(A) Confined feeding facilities for swine which were permitted or certified by the secretary on July 1, 1994;

(B) confined feeding facilities for swine which existed on July 1, 1994, and registered with the secretary before July 1, 1996; or

(C) expansion of a confined feeding facility which existed on July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000 or more prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion; or (ii) in the case of a facility with an animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion and the animal unit capacity of the facility after expansion does not exceed 2,000.

(3) The separation distances required pursuant to subsections (j)(2)(C) and (D) and (h)(3) shall not apply to the following, as determined in accordance with subsections ~~(a), (e) and (f)~~ of K.S.A. 65-1,178(a), (e) and (f), and amendments thereto:

(A) Expansion of an existing confined feeding facility for swine if an application for such expansion has been received by the department before March 1, 1998; and

(B) construction of a new confined feeding facility for swine if an application for such facility has been received by the department before March 1, 1998.

(m) The separation distances required by this section for confined feeding facilities for swine shall be determined from the exterior perimeter of any buildings utilized for housing swine, any lots containing swine, any swine waste retention lagoons or ponds or other manure or wastewater storage structures and any additional areas designated by the registrant for future expansion. Such separation distances shall not apply to offices, dwellings and feed production facilities of a confined feeding facility for swine.

(n) The registrant shall give the notice required by subsections (k)(2)(B) and (C) by certified mail, return receipt requested, to all owners of habitable structures within the separation distance. The registrant shall submit to the department evidence, satisfactory to the department, that such notice has been given.

(o) All plans and specifications submitted to the department for new construction or new expansion of confined feeding facilities may be, but are not required to be, prepared by a professional engineer or a consultant, as approved by the department. Before approval by the department, any consultant preparing such plans and specifications shall submit to the department evidence, satisfactory to the department, of adequate general commercial liability insurance coverage.

Sec. 5. K.S.A. 48-1603 and 48-1620 and K.S.A. 2014 Supp. 65-171d and 65-3407c 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 15, 2015.

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## CHAPTER 36

### House Substitute for SENATE BILL No. 36°

AN ACT concerning the department of health and environment; creating the local conservation lending program.

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

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

(1) “Department” means the Kansas department of health and environment.

(2) “Eligible borrower” means:

(A) Any individual, limited liability agricultural company, limited agricultural partnership or family farm corporation, as defined in K.S.A. 17-5903, and amendments thereto, involved in farming or livestock production;

(B) a responsible party or an owner of real property, but does not include the state, any state agency, the federal government or any agency of the federal government; or

(C) a person who: (i) Is involved in a transaction related to real property; (ii) is not a responsible party or owner of the real property; (iii) voluntarily takes corrective action on the property in response to a request or order for corrective action from the department; and (iv) voluntarily implements an eligible conservation practice.

(3) “Eligible financial institution” means a bank or other financial

institution or association chartered or incorporated under the laws of this state, or organized under the laws of the United States or another state, which has a main or branch office or chapter in this state that agrees to participate in the Kansas local conservation lending program and is eligible to be a depository of state funds.

(4) “Eligible practice” means a conservation practice that prevents or reduces water pollution from nonpoint sources by using the most effective and practicable means of achieving water quality goals. Eligible practices include, but are not limited to, structural and nonstructural controls or systems as identified in the nonpoint source management plan.

(5) “Eligible project” means an individual conservation practice or system of conservation practices located within Kansas and identified in the nonpoint source management plan as eligible for a low interest loan through the local conservation lending program.

(6) “Linked deposit agreement” means the agreement and associated attachments provided by the secretary to the eligible financial institution for participation in the program.

(7) “Project application” means the forms provided by the department for the purpose of determining and certifying eligibility for funding a project through the local conservation lending program.

(8) “Secretary” means the secretary of health and environment.

(b) There is hereby created a local conservation linked deposit lending program, hereby referred to as the local conservation lending program. The secretary may establish and administer the local conservation lending program to facilitate loans by eligible financial institutions for the construction, design, rehabilitation and enhancement of nonpoint source control systems for public or private owners thereof. The eligible financial institution shall enter into a linked deposit agreement with the secretary, which shall include requirements necessary to implement the purposes of the local conservation lending program.

(c) The secretary shall prepare a nonpoint source management plan. The nonpoint source management plan, shall identify eligibility criteria, practices eligible for funding through the local conservation lending program, eligibility criteria for borrowers, eligibility criteria for costs, project completion and certification requirements and process, and establish other program requirements.

(d) The secretary shall authorize a linked deposit in the amount certified by the secretary using long-term investment funds available from the Kansas water pollution control revolving fund, K.S.A. 65-3322, and amendments thereto, or from other available sources to the secretary, into eligible financial institutions in the form of low-yielding certificates of deposit or time or demand deposits, or other authorized deposits or investments. If sufficient funds are not available for a linked deposit then the applications may be considered when funds become available at an

interest rate identified annually by the secretary in the nonpoint source management plan.

(e) The secretary is hereby authorized to disseminate information regarding eligibility for potential participants in this program.

(f) The secretary may accept or reject a project application based on the secretary's determination of project eligibility consistent with the eligibility criteria in the nonpoint source management plan. Upon acceptance of a project application, the secretary shall notify the eligible financial institution and borrower of approval.

(g) An eligible financial institution that agrees to receive a local conservation loan deposit shall accept and review applications for loans from eligible borrowers. The eligible financial institution shall apply all usual lending standards to determine the credit worthiness of eligible borrowers.

(h) The eligible financial institution may approve or reject a loan application based on the financial institution's evaluation of the eligible borrowers included in the application, the amount of the loan in the application and other appropriate considerations.

(i) The eligible financial institution shall enter into a local conservation linked deposit participation agreement with the secretary, which shall include requirements necessary to implement the purposes of the Kansas local conservation loan deposit program.

(j) The loans authorized by this act shall not be deemed to constitute a debt or liability of the state or the secretary, and shall not constitute a pledge of the full faith and credit of the state, any political subdivision thereof or the secretary. The state, any political subdivision thereof or the secretary shall not, in any event, be liable for the payment of the principal or interest on any such loan made by an eligible financial institution to an eligible borrower. Any delay in payments or default on the part of an eligible borrower does not, in any manner, affect the linked deposit agreement between the eligible financial institution and the secretary.

(k) The secretary is hereby authorized to adopt any 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 its publication in the statute book.

Approved April 15, 2015.

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## CHAPTER 37

## SENATE BILL No. 156

AN ACT concerning the department of agriculture; relating to water conservation areas; agricultural liming materials; the Arkansas river gaging fund; amending K.S.A. 2-2907 and K.S.A. 2014 Supp. 2-2903 and 74-5,133 and repealing the existing sections.

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

New Section 1. (a) Any water right owner or a group of water right owners in a designated area may enter into a consent agreement and order with the chief engineer to establish a water conservation area. The water right owner or group of water right owners shall submit a management plan to the chief engineer. Such management plan shall be the basis of the consent agreement and order designating a water conservation area and shall:

- (1) Include clear geographic boundaries;
- (2) include the written consent of all participating water right owners within the geographic boundaries described in paragraph (1) to enter into the consent agreement and order;
- (3) include a finding or findings that one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, exist;
- (4) include provisions regarding the proposed duration of the water conservation area and any process by which water right owners may request to be added or removed from the water conservation area;
- (5) include goals and corrective control provisions to address one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto;
- (6) give due consideration to water users who have previously implemented reductions in water use resulting in voluntary conservation measures;
- (7) include compliance monitoring and enforcement; and
- (8) be consistent with state law.

(b) A consent agreement and order of designation of a water conservation area pursuant to this section shall define the boundaries of the water conservation area and may include any of the following corrective control provisions:

- (1) Closing the water conservation area to any further appropriation of groundwater. In which event, the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area;
- (2) determining the permissible total withdrawal of groundwater in the water conservation area each day, month or year, and apportioning such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights;

(3) reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the water conservation area;

(4) requiring and specifying a system of rotation of groundwater use in the water conservation area; and

(5) any other provisions necessary to effectuate agreed-upon water conservation goals consistent with the public interest.

The chief engineer shall be responsible for the monitoring and enforcement of any corrective control provisions ordered for a water conservation area.

(c) The order of designation shall be in full force and effect from the date of its entry in the records of the chief engineer's office. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order and shall file a copy of the same with the register of deeds of any county within which any part of the water conservation area lies.

(d) If any corrective control provisions of a water conservation area conflict with rules and regulations of a groundwater management district or requirements of a local enhanced management plan or intensive groundwater use control area that result in greater overall conservation of water resources within which a participating water right is situated, the chief engineer is authorized to amend the provisions of the water conservation area to conform to any rules and regulations or requirements that result in greater conservation of water resources, as determined by the chief engineer. As part of the consent agreement and order of designation, the chief engineer may authorize single-year or multi-year term permits for water right owners to effectuate the water conservation area's conservation goals in accordance with the management plan.

(e) Prior to execution of a proposed water conservation area consent agreement and order of designation pursuant to this section, the chief engineer shall notify in writing the groundwater management district within which any participating water right is situated. Such groundwater management district shall be given an opportunity to provide a written recommendation regarding the proposed water conservation area and management plan within 45 days of notification by the chief engineer. The review period may be extended by up to 30 days upon approval by the chief engineer. Subject to subsection (d), any participating water right in a water conservation area shall continue to be subject to all applicable rules and regulations and management plans of the groundwater management district in which the water right is situated.

(f) The consent agreement and order of designation shall provide for periodic review of the consent agreement and order, which may be initiated by the chief engineer or upon request of the water right owners in the water conservation area. The consent agreement and order shall specify the frequency of such periodic review, but a review shall be conducted at least once every 10 years.

(g) (1) The chief engineer may, with the consent of all participating water right owners, amend a consent agreement and order of designation in order to:

(A) Modify corrective control provisions or the boundaries of the designated area;

(B) add or remove water rights upon request of such water right owners;

(C) terminate a water conservation area upon the request of the water right owners in the designated area; or

(D) make other changes the water right owners may request.

(2) Any amendments to a consent agreement and order of designation, except amendments that remove a water right upon request of the owner so long as the consent of all participating water right owners is not required pursuant to the management plan, shall be consented to by all participating water right owners within the designated area and the chief engineer and shall be based upon a revised management plan submitted by the participating water right owners.

(h) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

(i) The provisions of this section shall be part of and supplemental to the Kansas water appropriation act.

Sec. 2. K.S.A. 2014 Supp. 2-2903 is hereby amended to read as follows: 2-2903. (a) Every package or container of agricultural liming materials sold, offered or exposed for sale in this state shall have affixed to each package in a conspicuous manner on the outside thereof, a plainly printed, stamped or otherwise marked label, tag or statement setting forth the following information: (1) The name and principal office address of the manufacturer or distributor;

(2) the brand or trade name of the material;

(3) the identification of the product as to type of agricultural liming material;

(4) the net weight of the agricultural liming material;

(5) the calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists, and in *such* minimum amounts as prescribed by rules and regulations of the secretary of agriculture; and

(6) the minimum percentage by weight passing through U.S. standard sieves, as prescribed by rules and regulations;

(7) the minimum percentage of weight of effective calcium carbonate equivalent (ECC), a function of calcium carbonate equivalent and fineness as prescribed by rules and regulations of the secretary of agriculture.

(b) In any case where a bulk sale of agricultural liming materials is made, the delivery slip identifying such sale shall contain the information required by subsection (a)(7).

(c) No information or statement shall appear on any package, label, delivery slip or advertising material which is false or misleading to the purchaser as to the quality, analysis, type or composition of the agricultural liming material.

(d) In the case of any material which has been adulterated subsequent to packaging, labeling or loading thereof but before delivery to the consumer, a plainly marked notice to that effect shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of adulteration therein.

(e) At every site from which agricultural liming materials are delivered in bulk or orders for bulk deliveries are placed by consumers, there shall be conspicuously posted a statement setting forth the information required by subsection (a) of this section for each brand of material.

Sec. 3. K.S.A. 2-2907 is hereby amended to read as follows: 2-2907. (a) It shall be the duty of the secretary or ~~his or her~~ *the secretary's* duly authorized agent to sample, inspect, make analyses of and test agricultural liming materials distributed within this state as often as the secretary may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this act. The secretary or ~~his or her~~ *the secretary's* agent may enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material subject to the provisions of this act, and to any records relating to their distribution.

(b) The methods of analysis and sampling shall be those approved by the secretary, ~~and shall be guided by association of official analytical chemists procedures.~~

Sec. 4. K.S.A. 2014 Supp. 74-5,133 is hereby amended to read as follows: 74-5,133. (a) (1) There is hereby established in the state treasury the Arkansas river gaging fund, which shall be administered by the secretary of agriculture. All expenditures from the Arkansas river gaging fund shall be for the operation and maintenance of:

(A) The gages along the Arkansas river necessary to manage the river under the Arkansas river compact;; *and*

(B) *the stateline groundwater gage sites in the Arkansas river basin necessary to manage the quantity and quality of such groundwater.*

(2) ~~Except that,~~ After all expenditures are made during the fiscal year for the ~~operation and maintenance of the gages along the Arkansas river necessary to manage the river under the Arkansas river compact~~ *purposes listed in paragraph (1), then, expenditures shall be made* in accordance with the following priorities and subject to the expenditure limitations prescribed therefor:

(A) First, any remaining moneys authorized to be expended from the fund for the fiscal year shall be expended for the purposes of livestock market reporting in an amount not to exceed \$20,000 in a fiscal year; and

(B) second, if there are any remaining moneys authorized to be expended from the fund for the fiscal year after the expenditures for live-stock market reporting, then expenditures shall be made from the fund for the purpose of funding the bluestem pasture report in an amount not to exceed \$5,000.

~~(2)~~(3) All expenditures from the Arkansas river gaging 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 the designee of the secretary of agriculture.

(b) All moneys received as royalties from the state's oil and gas leases in Hamilton, Kearny, Finney, Gray and Ford counties, except those moneys arising from leases on lands under the control of the secretary of wildlife, parks and tourism as provided by K.S.A. 32-854, and amendments thereto, 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 Arkansas river gaging fund. During each fiscal year, when the total amount of moneys credited to the fund is equal to ~~\$75,000~~ \$95,000, no further moneys shall be credited to the fund. The remainder of the moneys received for such royalties for such fiscal year shall be credited to the state general fund.

Sec. 5. K.S.A. 2-2907 and K.S.A. 2014 Supp. 2-2903 and 74-5,133 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 15, 2015.

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## CHAPTER 38

SENATE BILL No. 240

(Amended by Chapter 98)

AN ACT concerning the banking code; relating to the state bank commissioner; amending K.S.A. 9-519, 9-520, 9-536, 9-542, 9-701, 9-801, 9-802, 9-803, 9-804, 9-806, 9-808, 9-809, 9-811, 9-812, 9-901a, 9-902, 9-903, 9-904, 9-905, 9-906, 9-907, 9-908, 9-909, 9-910, 9-911, 9-912, 9-1101a, 9-1102, 9-1107, 9-1111b, 9-1112, 9-1116, 9-1119, 9-1122, 9-1123, 9-1124, 9-1125, 9-1127a, 9-1127b, 9-1127c, 9-1130, 9-1132, 9-1133, 9-1137, 9-1138, 9-1201, 9-1204, 9-1205, 9-1207, 9-1213, 9-1214, 9-1301, 9-1304, 9-1403, 9-1405, 9-1501, 9-1502, 9-1503, 9-1504, 9-1505, 9-1506, 9-1602, 9-1603, 9-1604, 9-1607, 9-1609, 9-1611, 9-1612, 9-1701, 9-1708, 9-1709, 9-1712, 9-1714, 9-1715, 9-1716, 9-1717, 9-1719, 9-1720, 9-1724, 9-1807, 9-1901, 9-1902, 9-1902a, 9-1903, 9-1905, 9-1906, 9-1907, 9-1908, 9-1909, 9-1910, 9-1915, 9-1916, 9-2001, 9-2002, 9-2005, 9-2006, 9-2007, 9-2008, 9-2010, 9-2011, 9-2012, 9-2013, 9-2014, 9-2016, 9-2018, 9-2101, 9-2102, 9-2103 and 9-2104 and K.S.A. 2014 Supp. 9-532, 9-533, 9-534, 9-535, 9-1101, 9-1104, 9-1111, 9-1114, 9-1140, 9-1215, 9-1401, 9-1402, 9-1407, 9-1408, 9-1601, 9-1702, 9-1703, 9-1704, 9-1713, 9-1721, 9-1722, 9-1805, 9-2004, 9-2107, 9-2108, 9-2111, 39-709 and 44-314 and repealing the existing sections; also repealing K.S.A. 9-514, 9-515, 9-516, 9-517, 9-518, 9-523, 9-538, 9-539, 9-702, 9-703, 9-807, 9-810, 9-813, 9-1101b, 9-1103, 9-1105, 9-1106, 9-1108, 9-1109, 9-1110, 9-1111d, 9-1113, 9-1301a, 9-1507, 9-1605, 9-1606, 9-1608, 9-1610, 9-1705, 9-1710, 9-1711, 9-1718, 9-1723, 9-1802, 9-1803, 9-1808, 9-1904, 9-1912, 9-1914, 9-1914a, 9-2003, 9-2009, 9-2015, 9-2017 and 9-2105 and K.S.A. 2014 Supp. 9-805, 9-1118, 9-1135, 9-1139, 9-1216, 9-1303, 9-1706, 9-1707, 9-1801, 9-1804 and 9-2106.

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

New Section 1. A Kansas state bank may pledge any of the bank's assets as collateral or otherwise secure the deposits of public money for governmental units located in another state where the Kansas state bank has a branch location, so long as such security is given in accordance with the laws of that state.

New Sec. 2. (a) Whenever the commissioner is of the opinion that an emergency, as defined by K.S.A. 9-1122, and amendments thereto, exists or is impending in this state which affects, or may affect, a particular bank, trust company, multiple banks or multiple trust companies, the commissioner may, by proclamation, temporarily close the particular institutions located in the affected area. The banks or trust companies so closed shall remain closed until the commissioner proclaims that the emergency has ended.

(b) The commissioner may approve a request for an emergency temporary closing and subsequent reopening of a particular bank or trust company by the officers of such bank or trust company pursuant to K.S.A. 9-1122, and amendments thereto.

(c) Whenever the commissioner is of the opinion that an emergency, as defined by K.S.A. 9-1122, and amendments thereto, affects, or may affect, a particular bank, branch bank, trust company or trust service office, the commissioner may approve a temporary relocation of the bank, branch bank, trust company or trust service office. The temporary relocation shall be as close as the commissioner determines is safely possible

to the bank, branch bank, trust company or trust service office's approved place of business.

(d) Every day that any bank, branch bank, trust company, or trust service office thereof, remains closed pursuant to this section shall be deemed a holiday for all of the purposes of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, and with respect to any banking business of any character. No bank, branch bank, trust company or trust service office shall be required to permit access to such bank's, branch bank's or trust company's safe deposit vault or vaults on any such day. If the terms of a contract require the payment of money or the performance of a condition on any such day by, through, with or at any bank, branch bank, trust company or trust service office, then the payment may be made or condition performed on the next business day with the same force and effect as if made or performed in accordance with the terms of the contract. No liability or loss of rights of any kind shall result from the delay.

(e) Any bank, branch bank, trust company or trust service office temporarily closed or relocated pursuant to this section shall post notice of such closing in a conspicuous place at each closed location. Such notice shall serve as official notification to everyone of the temporary closing or relocation of the bank, branch bank, trust company or trust service office and thereafter no liability shall be incurred by the bank or trust company by reason of the temporary closing or relocation pursuant to this section.

New Sec. 3. (a) The commissioner may enter into any informal agreement with any bank or trust company for a plan of action to address possible safety or soundness concerns, violations of law or any weakness displayed by the bank or trust company if the commissioner determines that the bank or trust company displays:

(1) Possible safety and soundness concerns or is violating, has violated or is about to violate any law, rule and regulation or order of the commissioner or the state banking board resulting in a less than satisfactory condition, but not to a degree requiring formal administrative action; or

(2) any weakness that if not properly addressed and corrected would reasonably be expected to result in future safety and soundness concerns, violations of applicable laws, rules and regulations and further deterioration in the condition of the bank or trust company.

(b) The adoption of an informal agreement authorized by this section shall not be subject to the provisions of K.S.A. 77-501 et seq., and amendments thereto, or K.S.A. 77-601 et seq., and amendments thereto. Any informal agreement authorized by this section shall not be considered an order or other agency action and shall be considered confidential examination material pursuant to K.S.A. 9-1712, and amendments thereto. The provisions of this subsection shall expire on July 1, 2020, unless the leg-

islature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2020.

New Sec. 4. The commissioner may enter into a consent order at any time with a bank, trust company, any executive officer, director, employee, agent or other person to resolve a matter arising under the state banking code, rules and regulations adopted thereto or an order issued pursuant to the state banking code.

New Sec. 5. (a) Upon the affirmative vote of a majority of the outstanding voting stock and approval of a liquidation plan by the commissioner, any bank may liquidate by paying in full all of the bank's depositors and creditors. Any bank desiring to voluntarily liquidate shall file a plan for liquidation with the commissioner.

(b) The commissioner may examine the bank or compel the bank to file reports with the commissioner during the time the bank is being liquidated. If the commissioner finds at any time during the liquidation period that the bank is not adhering to the approved liquidation plan, the commissioner may take action as authorized by article 18 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto. If the commissioner finds that any deviation from the liquidation plan may be harmful to the depositors and creditors of the institution, the commissioner may appoint a receiver in accordance with procedures provided in article 19 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto.

(c) Upon the completion of the liquidation, the bank shall immediately surrender the bank's certificate of authority to transact a banking business, remove all advertising signs, and notify and make the necessary filings with the secretary of state. The commissioner shall make a final examination to determine that all depositors and creditors have been paid before any distribution is made to stockholders.

New Sec. 6. Upon the approval of the commissioner, the board of directors of any bank in the process of voluntary liquidation may borrow an amount not in excess of 100% of the bank's total deposit liabilities and may pledge the bank's assets.

New Sec. 7. As part of the liquidation plan as approved by the commissioner, any bank, for the purpose of liquidation, may sell all or any part of the bank's assets to any other bank, either state or national, and may receive in payment cash or its equivalent, shares of stock in the purchasing bank, or both.

New Sec. 8. It shall be unlawful for any director, officer, employee or agent of a bank or trust company to alter, destroy, shred, mutilate, conceal, cover up or falsify any record with the intent to impede, obstruct, impair or influence any examination, investigation or proceeding by the commissioner. Any director, officer, employee or agent of a bank or trust

company who violates this section, upon conviction shall be guilty of a severity level 8, nonperson felony.

New Sec. 9. (a) No bank or trust company organized under the laws of this state shall change the bank's or trust company's place of business, from one city or town to another or from one location to another within the same city or town, without prior approval. Any such bank or trust company desiring to change the bank's or trust company's place of business shall file written application with the office of the state bank commissioner in such form and containing such information the commissioner shall require. Notice of the proposed relocation shall be published in a newspaper of general circulation in the county where the main bank or trust company is currently located and in the county to which the bank or trust company proposes to relocate. The notice shall be in the form prescribed by the commissioner and at a minimum shall contain the name and address of the applicant bank or trust company, the address of the proposed new location and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 calendar days after the date of the second publication. The applicant shall provide proof of publication to the commissioner.

(b) The commissioner shall examine and investigate the application. The commissioner shall approve the application if it is found:

(1) There is a reasonable probability of usefulness and success of the bank or trust company in the proposed location;

(2) the applicant bank's or trust company's financial history and condition is sound; and

(3) the name selected for the bank is different from that of any other bank: (A) Doing business in the same city or town; and

(B) within a 15-mile radius of the proposed location although any bank or trust company may request exemption from the commissioner from this paragraph.

(c) If the commissioner denies an application, the applicant shall have the right to a hearing before the state banking board to be conducted in accordance with the Kansas administrative procedure act. Any action of the state banking board pursuant to this section is subject to review in accordance with the Kansas judicial review act.

(d) Upon approval of such place of business change, the bank or trust company must notify and make the necessary filings as may be required by the secretary of state's office.

New Sec. 10. (a) Any applicant making application under article 8 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall pay to the commissioner a fee in an amount established pursuant to section 12, and amendments thereto, to defray the expenses of the state

banking board, commissioner or other designees in the examination and investigation of the application.

(b) The commissioner shall remit all moneys received under this section 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 bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner, or designee, in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.

(c) Any members of the state banking board who make such an examination or investigation shall be paid the sum of \$35 per diem for the time they actually are engaged in performing their duties as members of such board and shall be compensated all their actual and necessary expenses incurred in the performance of such duties from such funds.

New Sec. 11. (a) As used in this section, “bankers’ bank” means a state bank which is owned exclusively, except to the extent directors’ qualifying shares are required by law, by other state banks, federally chartered banks or a one-bank holding company and is organized to engage exclusively in providing services for other state banks or federally chartered banks and their officers, directors and employees.

(b) The state banking board may approve the application for the organization of a state bankers’ bank under the provisions of K.S.A. 9-801 et seq., and amendments thereto.

New Sec. 12. (a) Except as provided in subsection (b), at the time of filing any application described below, the applicant shall remit to the commissioner a nonrefundable fee in the amount of:

(1) Bank or trust company charter .....	\$2,500
(2) New branch bank .....	750
(3) Relocation of a branch bank or main office .....	750
(4) Merger, consolidation or transfer of assets and liabilities ....	1,000
(5) Change of control:	
(A) General .....	1,000
(B) Bona fide gift or inheritance .....	500
(C) Formation of one-bank holding company and associated exchange of stock .....	500
(6) Conversion to state charter .....	500
(7) Fiduciary activities:	
(A) Trust authority .....	500
(B) Trust branch .....	500
(C) Trust service office .....	500
(D) Contracting trustee agreement .....	500
(E) Out of state trust facility .....	500

(8) Change of name ..... 250  
 (9) Revenue bond pledgibility ..... 200  
 (10) Letter of good standing ..... 50

(b) The commissioner may adopt rules and regulations to change the amount of the fees established in subsection (a) to an amount not to exceed 150% of any such fee established in subsection (a).

(c) The commissioner may waive any fee established by this section.

(d) Any applicant may be required by the commissioner to pay any additional cost associated with any examination or investigation if the commissioner determines that an on-site examination of the financial institutions or trust companies that are parties to the application is necessary.

(e) Within two weeks of the beginning of each legislative session, the commissioner shall submit to the senate committee on ways and means, the appropriate senate budget subcommittee, the house of representatives committee on appropriations and the appropriate house of representatives budget committee, a written summary of any rules and regulations adopted to establish fees pursuant to subsection (b) during the preceding year.

(f) The commissioner may adopt rules and regulations necessary to administer the provisions of this section.

New Sec. 13. Banks are hereby authorized to give security for the safekeeping and prompt payment of funds deposited by any federally recognized Indian tribe.

Sec. 14. K.S.A. 9-519 is hereby amended to read as follows: 9-519. For the purposes of K.S.A. 9-520 through 9-524, and amendments thereto, and K.S.A. 9-532 through 9-541, and amendments thereto, unless otherwise required by the context:

(a) “Bank” means an insured bank as defined in 12 U.S.C. § 1813(h) except the term shall not include a national bank that: (1) Engages only in credit card operations;

(2) does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others;

(3) does not accept any savings or time deposits of less than \$100,000;

(4) maintains only one office that accepts deposits; and

(5) does not engage in the business of making commercial loans.

~~(a)~~(b) (1) “Bank holding company” means any company:

(A) Which directly or indirectly owns, controls, or has power to vote 25% or more of any class of the voting shares of a bank or 25% or more of any class of the voting shares of a company which is or becomes a bank holding company by virtue of this act;

(B) which controls in any manner the election of a majority of the

directors of a bank or of a company which is or becomes a bank holding company by virtue of this act;

(C) ~~for the benefit of whose shareholders or members 25% or more of any class of the voting shares of a bank or 25% or more of any class of the voting shares of a company which is or becomes a bank holding company by virtue of this act, is held by trustees; or~~

~~(D) which, by virtue of acquisition of ownership or control of, or the power to vote the voting shares of, a bank or another company, becomes a bank holding company under this act which the commissioner determines, after notice and opportunity for a hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the bank or company.~~

(2) Notwithstanding paragraph (1), no company:

(A) Shall be deemed to be a bank holding company by virtue of ~~its~~ *the company's* ownership or control of shares acquired by ~~it~~ *the company* in connection with ~~its~~ *such company's* underwriting of securities if such shares are held only for such period of time as will permit the sale thereof on a reasonable basis;

(B) formed for the sole purpose of participating in a proxy solicitation shall be deemed to be a bank holding company by virtue of ~~its~~ *the company's* control of voting rights of shares acquired in the course of such solicitation;

(C) shall be deemed to be a bank holding company by virtue of ~~its~~ *the company's* ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, provided such shares are disposed of within a period of two years from the date on which such shares could have been disposed of by such company; *or*

(D) owning or controlling voting shares of a bank shall be deemed to be a bank holding company by virtue of ~~its~~ *the company's* ownership or control of shares held in a fiduciary capacity except where such shares are held for the benefit of such company or ~~its~~ *the company's* shareholders.

~~(b)~~(c) “Company” means any corporation, *limited liability company*, trust, ~~limited~~ partnership, association or similar organization including a bank, but shall not include any corporation the majority of the shares of which are owned by the United States or by any state; or include any individual ~~or~~, partnership *or qualified family partnership upon the determination by the commissioner that a general or limited partnership qualifies under the definition in 12 U.S.C. § 1841(o)(10).*

(c) “Bank” means ~~an insured bank as defined in section 3(h) of the federal deposit insurance act, 12 U.S.C. § 1813(h), except the term shall not include a national bank which engages only in credit card operations; does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others; does not accept any savings or time deposits of less than \$100,000, accepts~~

~~deposits only from corporations which own 51% or more of the voting shares of the bank holding company or its parent corporation of which the bank engaging only in credit card operations is a subsidiary, maintains only one office that accepts deposits, and does not engage in the business of making commercial loans.~~

~~(d) “Subsidiary” with respect to a specified bank holding company means:~~

~~(1) Any company more than 5% of the voting shares of which, excluding shares owned by the United States or by any company wholly owned by the United States, is directly or indirectly owned or controlled by such bank holding company or is held by it with power to vote;~~

~~(2) any company the election of a majority of the directors of which is controlled in any manner by such bank holding company; or~~

~~(3) any company more than 5% of the voting shares of which is held by trustees for the benefit of such bank holding company or its shareholders.~~

~~(e) “Commissioner” means the Kansas state bank commissioner~~

~~(d) “Foreign bank” means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands or any subsidiary or affiliate organized under such laws, which engages in the business of banking.~~

~~(f)(e) “Kansas bank” means any bank, as defined by subsection (a), which, in the case of a state chartered bank, is a bank chartered under the authority of the state of Kansas, and in the case of a national banking association, a bank with its main office located in Kansas.~~

~~(g)(f) “Kansas bank holding company” means a bank holding company, as defined by subsection (a) (b), with total subsidiary bank deposits in Kansas which exceed the bank holding company’s subsidiary bank deposits in any other state.~~

~~(h)(g) “Out-of-state bank holding company” means any holding company which is not a Kansas bank holding company as defined in subsection (f).~~

~~(i) “Foreign bank” means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company~~

~~(h) “Subsidiary” means, with respect to a specified bank holding company:~~

~~(1) Any company with more than 5% of the voting shares, excluding shares owned by the United States or by any company wholly owned by the United States, that are directly or indirectly owned or controlled by, or held with power to vote, such bank holding company; or~~

~~(2) any company, the election of a majority of the directors of which, is controlled in any manner by such bank holding company.~~

Sec. 15. K.S.A. 9-520 is hereby amended to read as follows: 9-520. (a) Excluding shares held under the circumstances set out in ~~paragraph (2) of subsection (a) of~~ K.S.A. 9-519(b)(2), and amendments thereto, no bank holding company or any subsidiary thereof shall directly or indirectly acquire ownership or control of, or power to vote, any of the voting shares of any bank which holds Kansas deposits if, after such acquisition, the bank holding company and all subsidiaries would hold or control, in the aggregate, more than 15% of total Kansas deposits.

(b) This section shall not prohibit a bank holding company or any subsidiary thereof from acquiring ownership or control of, or power to vote, any of the voting shares of any bank if the commissioner, in the case of a bank organized under the laws of this state, or the comptroller of the currency, in the case of a national banking association, determines that an emergency exists and that the acquisition is appropriate in order to protect the public interest against the failure or probable failure of the bank.

(c) As used in this section, "Kansas deposits" means *all* deposits, ~~savings deposits~~, shares or similar accounts held by banks, savings and loan associations, savings banks and building and loan associations attributable to any office in Kansas where deposits are accepted as determined by the commissioner on the basis of the most recent reports to supervisory authorities which are available at the time of the acquisition.

Sec. 16. K.S.A. 2014 Supp. 9-532 is hereby amended to read as follows: 9-532. (a) With prior approval of the commissioner: (1) *Any company by virtue of acquisition of ownership or control of, or the power to vote the voting shares of, a bank or another company, may become a bank holding company;* (2) any bank holding company may acquire, directly or indirectly, ownership or control of, or power to vote, any of the voting shares of, an interest in; or all or substantially all of the assets of a Kansas state chartered bank or of a bank holding company that has an ownership interest in a Kansas state chartered bank.

(b) Request for approval shall be made by filing an application in such form as required by the commissioner, containing the information prescribed by K.S.A. 9-533, and amendments thereto, and by rules and regulations adopted by the commissioner. ~~At the time of filing the application, the applicant shall pay to the commissioner a fee in an amount established by rules and regulations adopted by the commissioner.~~

(c) *Any applicant making application under this section shall pay to the commissioner a fee in an amount established pursuant to section 12, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all moneys received under this section 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 bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.*

Sec. 17. K.S.A. 2014 Supp. 9-533 is hereby amended to read as follows: 9-533. An application filed pursuant to K.S.A. 9-532, and amendments thereto, shall provide the following information and include the following documents:

(a) A copy of any application by *an* applicant seeking approval by a federal agency of the acquisition of the voting shares or assets of a Kansas state chartered bank or of a bank holding company that has an ownership interest in a Kansas state chartered bank; and of any supplemental material or amendments filed with the application.

~~(b) Copies of the public sections of the most recent CRA performance evaluations for all banks which are subsidiaries of the applicant which were assigned a rating of “needs to improve record of meeting community credit needs” or “substantial noncompliance in meeting community needs” under the federal community reinvestment act of 1977, 12 U.S.C. § 2001 et seq.~~

~~(c)~~—Statements of the financial condition and future prospects, including current and projected capital positions and levels of indebtedness, of the applicant and the Kansas state chartered bank or bank holding company that has an ownership interest in a Kansas state chartered bank which is the subject of the application filed pursuant to K.S.A. 9-532, and amendments thereto.

~~(d)~~—(c) Information as to how the applicant proposes to adequately meet the convenience and needs of the community served by the Kansas state chartered bank or bank holding company that has an ownership interest in a Kansas state chartered bank which is the subject of the application filed pursuant to K.S.A. 9-532, and amendments thereto, and the communities served by other Kansas banks which are subsidiaries of the applicant, in accordance with the federal community reinvestment act of 1977, 12 U.S.C. § 2901 et seq.

~~(e)~~—A list of the name and location of each subsidiary bank of the applicant, together with each subsidiary’s most recent examination date, and assigned composite CAMEL rating, and information reflecting each subsidiary’s total assets, capital ratios, return on assets ratio and loan to deposit ratios.

~~(f)~~—(d) Any additional information the commissioner deems necessary.

Sec. 18. K.S.A. 2014 Supp. 9-534 is hereby amended to read as follows: 9-534. In determining whether to approve an application filed pursuant to K.S.A. 9-532, and amendments thereto, the commissioner shall consider the following factors:

(a) Whether the *subsidiary* banks ~~already subsidiaries~~ of the applicant are operated in a safe, sound and prudent manner.

(b) Whether *the subsidiary* banks ~~already subsidiaries~~ of the applicant have provided adequate and appropriate services to their communities, including services contemplated by ~~the federal community reinvestment act of 1977~~, 12 U.S.C. § 2901 et seq.

(c) Whether the applicant proposes to provide adequate and appropriate services, including services contemplated by ~~the federal community reinvestment act of 1977~~, 12 U.S.C. § 2901 et seq., in the communities served by the Kansas state chartered bank or by the Kansas bank subsidiaries of the bank holding company that has an ownership interest in a Kansas state chartered bank.

(d) Whether the proposed acquisition will result in a Kansas state chartered bank or bank holding company that has an ownership interest in a Kansas state chartered bank that has adequate capital and good earnings prospects.

(e) Whether the financial condition of the applicant or any of its subsidiary banks would jeopardize the financial stability of the Kansas state chartered bank or bank holding company that has an ownership interest in a Kansas state chartered bank which is the subject of the application.

(f) *Whether the competence, experience and integrity of the managerial resources of the applicant or any proposed management personnel of any Kansas state chartered bank or any Kansas bank subsidiaries of the bank holding company that has an ownership interest in a Kansas state chartered bank indicates that to permit such person to control a bank would not be in the interest of the depositors of a bank or in the interest of the public.*

Sec. 19. K.S.A. 2014 Supp. 9-535 is hereby amended to read as follows: 9-535. (a) The commissioner shall approve the application if the commissioner determines that the application favorably meets each and every factor prescribed in K.S.A. 9-534, and amendments thereto, the proposed acquisition is in the interest of the depositors and creditors of the Kansas state chartered bank or bank holding company that has an ownership interest in a Kansas state chartered bank which is the subject of the proposed acquisition and in the public interest generally. Otherwise, the application shall be denied.

(b) ~~Within 15 days after the commissioner's approval or denial~~ *If the commissioner denies the application, the applicant shall have the right to appeal in writing to the state banking board the commissioner's determination by filing a notice of appeal with the commissioner a hearing before the state banking board to be conducted in accordance with the Kansas administrative procedure act. The state banking board shall fix a date for hearing, which hearing shall be held within 45 days after such notice of appeal is filed. The state banking board shall conduct the hearing*

~~in accordance with the provisions of the Kansas administrative procedure act and render its the board's decision affirming or rescinding the determination of the commissioner. Any action of the state banking board pursuant to this section is subject to review in accordance with the Kansas judicial review act. An applicant who files an appeal to the state banking board of the commissioner's determination shall pay to the commissioner a fee in an amount established by rules and regulations of the commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, to defray the board's expenses associated with conducting the appeal.~~

Sec. 20. K.S.A. 9-536 is hereby amended to read as follows: 9-536. An applicant filing an application pursuant to K.S.A. 9-532, and amendments thereto, ~~also shall be subject to~~ *may be required to the extent applicable to supplement the application with such information as may be required pursuant to K.S.A. 9-1719 through 9-1724 et seq.*, and amendments thereto, ~~to the extent applicable.~~

Sec. 21. K.S.A. 9-542 is hereby amended to read as follows: 9-542. Articles 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 of chapter 9 of the Kansas Statutes Annotated, K.S.A. 74-3004, 74-3005, 74-3006, 75-1304, 75-1305 and 75-1306, and 75-1308, *and sections 1 through 13*, and amendments thereto, shall constitute and may be cited as the state banking code.

Sec. 22. K.S.A. 9-701 is hereby amended to read as follows: 9-701. Unless otherwise clearly indicated by the context, the following words when used in ~~this act~~ *the state banking code*, for the purposes of ~~this act~~ *the state banking code*, shall have the meanings respectively ascribed to them in this section:

- (a) "Bank" means a state bank incorporated under the laws of Kansas.
- (b) "Business of banking" means receiving or accepting money on deposit, and may include the performance of related activities that are not exclusive to banks, including paying drafts or checks, lending money or any other activity authorized by applicable law.
- ~~(b)~~(c) "Trust company" means a trust company incorporated under the laws of Kansas and which does not accept deposits.
- ~~(c)~~"Board" means the Kansas state banking board.
- (d) "Commissioner" means the Kansas state bank commissioner.
- (e) "Executive officer" ~~means the chairperson of the board, the president, each vice president, the cashier, the secretary and the treasurer of a bank, unless such officer is excluded by resolution of the board of directors or by the bylaws of the bank or bank holding company from participation, other than in the capacity of a director, in major policymaking functions of the bank or bank holding company, and the officer does not actually participate in major policymaking functions of the bank or bank holding company~~ means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking

functions of the bank or trust company, whether or not the officer has an official title, the title designates the officer as an assistant or the officer is serving without salary or other compensation. The chairperson of the board, the president, every vice president, the cashier, the secretary and the treasurer of a company or bank are considered executive officers.

(1) A bank may, by resolution of the board of directors or by the bylaws of the bank or trust company, exempt an officer from participation, other than in the capacity of a director, in major policymaking functions of the bank or trust company if the officer does not actually participate therein.

(2) The commissioner may make the determination that a person is an executive officer if the commissioner determines that the criteria are met despite the existence of a resolution allowed pursuant to this subsection.

~~(f) “Insured bank” means a state bank whose deposits are insured through the federal deposit insurance corporation or other governmental agency or by an insurer approved by the state commissioner of insurance for such purpose.~~ “Demand deposit” means a deposit that: (1) (A) Is payable on demand;

(B) is issued with an original maturity or required notice period of less than seven days;

(C) represents funds for which the depository institution does not reserve the right to require at least seven days’ written notice of an intended withdrawal; or

(D) represents funds for which the depository institution does reserve the right to require at least seven days’ written notice of an intended withdrawal; and

(2) is not also a negotiable order of withdraw account.

(3) “Demand deposit” does not include “time deposits” or “savings deposits” as defined in this section.

~~(g) “Item” means any check, note, order, or other instrument or memorandum providing for the payment of money, or upon which money may be collected.~~ “Time deposit,” also known as a certificate of deposit, means a deposit that the depositor does not have a right and is not permitted to make withdrawals from within six days after the date of deposit unless the deposit is subject to an early withdrawal penalty of at least seven days’ simple interest on amounts withdrawn within the first six days after deposit. A time deposit from which partial early withdrawals are permitted must impose additional early withdrawal penalties for at least seven days’ simple interest on amounts withdrawn within six days after each partial withdrawal. If such additional early withdrawal penalties are not contractually imposed, the account ceases to be a time deposit, but may become a savings deposit if the account meets the requirements for a savings deposit.

~~(h) “Demand deposits” includes every deposit which is not a “time~~

deposit,” “savings deposit” or “negotiable order of withdrawal deposit” as defined in this section:

(i) “Time deposits” means “time certificates of deposit” and “time deposits, open account” as defined in this section:

(j) “Time certificate of deposit” means a deposit evidenced by a negotiable or nonnegotiable instrument which provides on its face that the amount of such deposit is payable, upon presentation and surrender of the instrument, to bearer or to any specified person or to such person’s order:

(1) On a certain date, specified in the instrument, not less than seven days after the date of the deposit, or

(2) at the expiration of a certain specified time not less than seven days after the date of the instrument, or

(3) upon notice in writing which is actually required to be given not less than seven days before the date of repayment.

(k) “Time deposit, open account” means a deposit, other than a “time certificate of deposit,” with respect to which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which shall be not less than seven days after the date of the deposit, or prior to the expiration of the period of notice which must be given by the depositor in writing not less than seven days in advance of withdrawal.

(l)(h) “Savings deposit” means a deposit: (1) Which consists of funds deposited to the credit of or in which the entire beneficial interest is held by one or more individuals, or of a corporation, association or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes and not operated for profit; or that consists of funds deposited to the credit of or in which the entire beneficial interest is held by the United States, any state of the United States or any county, municipality or political subdivision thereof, or that consists of funds deposited to the credit of, or in which any beneficial interest is held by a corporation, partnership, association or other organization not qualifying above; and (2) with respect to which the depositor is not required by the deposit contract but may at any time be required by the bank to give notice in writing of an intended withdrawal not less than seven days before such withdrawal is made and which is not payable on a specified date or at the expiration of a specified time after the date of deposit or account with respect to which the depositor is not required by the deposit contract, but may at any time, be required by the depository institution to give written notice of an intended withdrawal not less than seven days before such withdrawal is made and that is not payable on a specified date or at the expiration of a specified time after the date of deposit.

(m)(i) “Public moneys” means all moneys coming into the custody

of the United States government or any board, commission or agency thereof, and also shall mean all moneys coming into the custody of any officer of any municipal or quasi-municipal or public corporation, the state or any political subdivision thereof, pursuant to any provision of law authorizing any such official to collect or receive the same.

~~(n)~~(j) “Municipal corporation” means any city incorporated under the laws of Kansas.

~~(o)~~(k) “Quasi-municipal corporation” means any county, township, school district, drainage district, *rural water district* or any other governmental subdivision in the state of Kansas having authority to receive or hold moneys or funds.

~~(p)~~(l) “Certificate of authority” means a ~~statement~~ *certificate* signed and sealed by the commissioner evidencing the authority of a bank or trust company to transact a general *banking or trust* business as ~~such~~ *provided by law*.

~~(q)~~ “Transaction account” means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar device for the purpose of making payments or transfers to third persons or others.

~~(r)~~ “Nonpersonal time deposit” means a time deposit, including a savings deposit that is not a transaction account, representing funds in which any beneficial interest is held by a depositor which is not a natural person.

~~(s)~~ “Negotiable order of withdrawal deposit” means a deposit on which interest is paid and which is subject to withdrawal by the owner by negotiable or transferable instruments for the purpose of making transfers to third parties, and which consists solely of funds in which the entire beneficial interest is held by one or more individuals, an organization which is operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee or agent of the United States, any state, county, municipality or political subdivision thereof, the District of Columbia, the commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States or any political subdivision thereof.

~~(t)~~(m) “Trust business” means engaging in, or holding out to the public as willing to engage in, the business of acting as a fiduciary for hire, except that no accountant, attorney, credit union, insurance broker, insurance company, investment adviser, real estate broker or sales agent, savings and loan association, savings bank, securities broker or dealer, real estate title insurance company or real estate escrow company shall be deemed to be engaged in a trust company business with respect to fiduciary services customarily performed by them for compensation as a traditional incident to their regular business activities.

~~(u)~~ “Community development corporation” (CDC) means a corporate entity established by one or more financial institutions or by financial institutions and other investors or members, and operating for the primary purpose of housing development, economic growth and revitalization, small and minority business creation, and other community development initiatives.

~~(v)~~ “Community development project” (CD project) means a specific project in a particular location, such as a neighborhood, city, county or state, the primary purpose of which is the economic improvement of that area or the provision of housing for low-income and moderate-income persons in that area and any state tax credit equity fund established pursuant to K.S.A. 74-8904, and amendments thereto.

~~(n)~~ “Community and economic development entity” means an entity that makes investments or conducts activities that primarily benefit low-income and moderate-income individuals, low-income and moderate-income areas, or other areas targeted by a governmental entity for redevelopment, or would receive consideration as “qualified investments” under the community reinvestment act pub.L. 95-128, title VIII, 91 stat. 1147, 12 U.S.C. § 2901 et seq., and any state tax credit equity fund established pursuant to K.S.A. 74-8904, and amendments thereto.

~~(w)~~(o) “Depository institution” means any state bank, national banking association, state savings and loan or federal savings association, without regard to the state where the institution is chartered or the state in which the institution’s main office is located.

~~(x)~~(p) “Student bank” means any nonprofit program offered by a high school accredited by the state board of education, where deposits are received, checks are paid or money is lent for limited in-school purposes.

Sec. 23. K.S.A. 9-801 is hereby amended to read as follows: 9-801. ~~Any five or more persons may organize a bank or trust company and make and file articles of incorporation as provided by the laws of the state of Kansas. Except as otherwise provided in subsection (b) of K.S.A. 9-1801, and amendments thereto, no banking corporation or trust company shall be organized or incorporated to engage in business as such until the articles of incorporation have been submitted to and have been approved by the board.~~ (a) No bank or trust company shall be organized or incorporated under the laws of this state nor transact either a banking business or a trust business in this state, until the application for such bank’s or trust company’s incorporation and application for certificate of authority has been submitted to and approved by the state banking board. The form for making any such application shall be prescribed by the state banking board and any application made to the state banking board shall contain such information as the state banking board shall require.

(b) No private bank shall engage in the banking business in this state.

- (c) *The state banking board shall not accept an application unless:*
- (1) *The bank or trust company is organized by five or more persons who shall also be stockholders of the proposed bank or trust company or parent company of the proposed bank or trust company;*
  - (2) *at least five of the organizers are residents of the state of Kansas and at least those five sign and acknowledge the articles of incorporation;*
  - (3) *the name selected for ~~the a bank or trust company shall not be the name of~~ is different from that of any other bank or trust company;*
- (A) *Doing business in the same city or town; and*
- (B) *within a 15-mile radius of the proposed location, and the name ~~shall be accepted or rejected by the board~~ selected for the trust company is different from any other trust company doing business in this state. Although, any bank or trust company may request exemption from the commissioner from the provisions of this subsection; and*
- (4) *the articles of incorporation ~~in addition to the information as now is required by law shall~~ contain the names and addresses of its stockholders; and the amount of common stock subscribed by each ~~and~~. The articles of incorporation may contain such other provisions as are consistent with ~~law~~ the general corporation code. ~~The articles of incorporation shall be subscribed by at least five of the stockholders of the proposed bank or trust company or the parent company of such proposed bank or trust company who are residents of the state of Kansas, and shall be acknowledged by them. The full amount of the common stock including the surplus and undivided profits as required by this act shall be subscribed before the articles of incorporation are filed.~~*
- (d) *If the state banking board shall determine any of the following factors unfavorably to the applicants, the application may be denied:*
- (1) *The financial standing, general business experience and character of the organizers and incorporators;*
  - (2) *the character, qualifications and experience of the officers of the proposed bank or trust company;*
  - (3) *the public need for the proposed bank or trust company in the community wherein it is proposed to locate the same and whether existing banks or trust companies are meeting such need;*
  - (4) *the prospects for success of the proposed bank or trust company; and*
  - (5) *any other criteria the state banking board may require.*
- (e) *The state banking board shall not make membership in any federal government agency a condition precedent to the granting of the authority to do business.*
- (f) *The state banking board may require fingerprinting of any officer, director, incorporator or any other person of the proposed trust company related to the application deemed necessary by the state banking board. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal*

*history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdictions. The state banking board may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons associated with the applicant trust company to be issued a charter. Whenever the state banking board requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.*

*(g) In the event two or more applications for incorporation and authority to do business seeking to serve the same general territory are pending before the state banking board and the state banking board determines all of such matters favorably in two or more such applications, the state banking board may approve the application of the proposed bank or trust company which the state banking board determines will best serve the needs of the territory sought to be served.*

*(h) The state banking board may approve the application of an existing bank or trust company to change such bank's or trust company's place of business and deny the application or applications for incorporation and authority to do business if:*

*(1) One or more such applications seeking to serve a territory are pending before the state banking board;*

*(2) the board has determined all of such matters favorably in one or more of such applications;*

*(3) there is an application of an existing bank or trust company pending before the state banking board to change such bank's or trust company's place of business to serve the same territory which the state banking board determines should be approved; and*

*(4) the board determines that there is public need for only one bank or trust company to serve the territory.*

*(i) Any final action of the state banking board approving or disapproving an application shall be subject to review in accordance with the Kansas judicial review act.*

*(j) If upon the dissolution, insolvency or appointment of a receiver of any bank, trust company, national bank association, savings and loan association, savings bank or credit union, the commissioner is of the opinion that by reason of the loss of services in the community, an emergency exists which may result in serious inconvenience or losses to the depositors or the public interest in the community, the commissioner may accept and approve an application for incorporation and an application for authority to do business from applicants for the organization and establishment of a successor bank or trust company.*

Sec. 24. K.S.A. 9-802 is hereby amended to read as follows: 9-802.  
*(a) The existence of any bank or trust company as a corporation shall date*

from the filing of ~~its~~ *the bank's or trust company's* articles of incorporation with the Kansas secretary of state's office from which time ~~it~~ *such bank or trust company* shall have and may exercise the incidental powers conferred by law upon corporations, except that no bank or trust company shall transact any business except the election of officers, the taking and approving of their official bonds, the receipts of payment upon stock subscriptions and other business incidental to its organization, until ~~it~~ *such bank or trust company* has secured the approval of the state banking board and the authorization of the ~~commissioners~~ *commissioner* to commence business.

(b) *The full amount of the common stock including the surplus and undivided profits as required by the Kansas banking code shall be subscribed before the articles of incorporation are filed with the Kansas secretary of state's office.*

Sec. 25. K.S.A. 9-803 is hereby amended to read as follows: 9-803. (a) Any bank whose ~~charter or~~ articles of incorporation has lapsed, or hereafter shall lapse, may renew and extend ~~its~~ *the bank's* corporate existence in the manner provided by law and upon payment of the requisite fees.

(b) *The acts of any bank or trust company whose articles of incorporation have lapsed or terminated by the expiration of time and whose corporate existence is renewed and extended are hereby legalized and declared to be valid in the same manner and to the same effect as though the banks and trust companies had been duly authorized at all times since their organization.*

Sec. 26. K.S.A. 9-804 is hereby amended to read as follows: 9-804. (a) Upon approval of an application to organize a bank or trust company with the state banking board, such board shall cause to be made by and through the commissioner, a careful examination and investigation concerning:

(1) *The amount of moneys paid in for capital, surplus and undivided profits, the persons that paid and the amount of capital stock owned in good faith by each stockholder;*

(2) *whether such bank or trust company has complied with the applicable provisions of law; and*

(3) *any other criteria the commissioner may require.*

(b) When the capital of any bank or trust company shall have been paid in, the president or cashier shall transmit to the commissioner a verified statement showing the names and addresses of all stockholders, the amount of stock each subscribed, and the amount paid in by each. ~~The commissioner shall examine such bank or trust company and shall charge the statutory examination fee and shall examine especially as to the amount of money paid in for capital, surplus and undivided profits, by whom paid, and the amount of capital stock owned in good faith by~~

each stockholder, and generally whether such bank or trust company has complied with the provisions of law.

(c) If the commissioner finds ~~from such~~, after examination and investigation, that the bank or trust company has been organized as provided by law, has complied with the provisions of law and has secured the preliminary approval of the commissioner ~~as authorized, if required by subsection (b) of K.S.A. 9-1801~~ 9-801(e), and amendments thereto, or upon the approval of the *state banking board*, the commissioner shall issue a certificate showing that such bank or trust company has been organized and its capital paid in as required by law, and that it is authorized to transact a general banking or trust business as provided by law.

Sec. 27. K.S.A. 9-806 is hereby amended to read as follows: 9-806. Any newly organized bank or trust company which ~~shall~~ *did* not begin business within ~~one hundred and twenty~~ 120 days after a certificate of authority has been issued to ~~it~~ *such bank or trust company* by the commissioner shall not engage in the banking business or the business of a trust company without again obtaining a certificate of authority from the commissioner.

Sec. 28. K.S.A. 9-808 is hereby amended to read as follows: 9-808. (a) ~~After first applying for and receiving approval from the commissioner~~ Upon the affirmative vote of not less than  $\frac{2}{3}$  of its outstanding voting stock, any national bank, federal savings association or federal savings bank organized under the laws of the United States and located in this state may become a state bank ~~upon the affirmative vote of not less than  $\frac{2}{3}$  of its outstanding voting stock~~. Any national bank, federal savings association or federal savings bank desiring to become a state bank shall apply to the commissioner for permission to convert to a state bank; and:

(1) ~~Shall submit a certified copy of its articles of association, a transcript of the minutes of the meeting of its stockholders showing approval of the proposed conversion and;~~

(2) *the name selected for the bank shall not be the name of any other bank: (A) Doing business in the same city or town; or*

(B) *within a 15-mile radius of the location of the converted institution. The name shall be accepted or rejected by the commissioner, although any bank may request exemption from the commissioner from this paragraph; and*

(3) *provide any other information required in the application form prescribed by the commissioner.*

(b) A federal savings association or federal savings bank operating in a mutual form must also convert to a stock form prior to converting to a state bank and shall submit appropriate documentation to the commissioner to show that the appropriate federal regulator has approved such mutual to stock conversion.

(c) Upon receipt of each of the items required by this section the

commissioner shall make or cause to be made such investigation as the commissioner deems necessary to determine whether:

(1) All state and federal requirements for a conversion have been satisfied;

(2) the conversion *or the financial condition of the bank* will not adversely affect the interests of the depositors; ~~and~~

(3) the resulting state bank will have an adequate capital structure *in accordance with K.S.A. 9-901a et seq., and amendments thereto; and*

(4) *the competence, experience or integrity of the proposed management personnel indicates it would be in the interest of the depositors of the bank and in the interest of the public to permit the conversion.*

(d) If the commissioner determines each of ~~these~~ *the matters in subsection (c)* favorably, the conversion shall be approved and the commissioner shall issue a certificate of authority. Upon issuance of a certificate of authority, the articles of incorporation, duly executed as required by ~~state law~~ *the Kansas corporate code*, shall be filed with the *Kansas* secretary of ~~state~~ *state's office*.

~~(b)-(e)~~ In any conversion authorized by this section the capital requirements of this act shall apply, and the new name for such resulting bank shall be approved by the commissioner. In any conversion authorized by this section the resulting state bank shall have authority to issue its shares of stock for shares of stock in the national bank, federal savings association or federal savings bank or property of the national bank, federal savings association or federal savings bank for and upon such valuation as shall be agreed upon, and approved by the commissioner. In any conversion authorized by this section, the resulting state bank by operation of law shall continue all trust functions being exercised by the national bank, federal savings association or federal savings bank and shall be substituted for the national bank, federal savings association or federal savings bank and shall have the right to exercise trust or fiduciary powers created by any instrument designating the national bank, federal savings association or federal savings bank even though such instruments are not yet effective.

~~(e)~~(f) In any conversion authorized by this section, the resulting state bank shall succeed by operation of law without any conveyance or transfer by the act of the national bank, federal savings association or federal savings bank to all the actual or potential assets, real property, tangible personal property, intangible personal property, rights, franchises and interests, including those in a fiduciary capacity of the national bank, federal savings association or federal savings bank and shall be subject to all of the liabilities of the national bank, federal savings association or federal savings bank.

~~(d)~~(g) In any conversion authorized by this section the rights and responsibilities of any shareholder of the national bank, federal savings association or federal savings bank who objects or dissents to the proposed

~~conversion shall be governed by the provisions of K.S.A. 17-6712, and amendments thereto, as though the national bank, federal savings association or federal savings bank was a Kansas corporation and the objecting or dissenting shareholder was objecting or dissenting to a proposed merger transaction. In any conversion authorized by this section the corporate existence of the national bank, federal savings association or federal savings bank shall be merged into and shall be continued in the resulting state bank, and the resulting state bank shall be deemed to be the identical corporate entity as the national bank, federal savings association or federal savings bank.~~

~~(e)(h)~~ Within a reasonable time after the effective date of the conversion, the resulting bank shall divest itself of all assets and liabilities that do not conform to state banking laws and rules and regulations. The length of this transition period shall be determined by the commissioner and shall be specified when the application for conversion is approved.

Sec. 29. K.S.A. 9-809 is hereby amended to read as follows: 9-809. (a) ~~Any state bank may at any time; Upon the affirmative vote of not less than  $\frac{2}{3}$  of its outstanding voting stock, become any state bank may convert to a national bank, but in all the proceedings incident thereto such bank shall be governed by the same rulings, laws and regulations as may be in force and effect under federal law and authority governing national banks becoming state banks.~~

(b) ~~The state bank shall provide written notice~~ *a copy of the application submitted to the comptroller of currency to the state bank* commissioner within 10 days after the date the state bank receives preliminary ~~applies for approval to convert to a national banking association from the office of the comptroller of the currency.~~

(c) ~~The state bank shall provide to the commissioner written notice of approval by the comptroller of currency to convert to a national bank within 10 days of receiving the approval.~~

(d) ~~In addition, not more than~~ *Within* 15 days following the issuance of a charter certificate to the bank by the comptroller, the bank shall surrender its state certificate of authority or charter and shall certify in writing that notice of the conversion has been given to the ~~corporations division of the Kansas~~ secretary of state's office.

Sec. 30. K.S.A. 9-811 is hereby amended to read as follows: 9-811. No financial institution whose deposits are insured by the federal deposit insurance corporation shall conduct business in this state unless such institution: (a) Has the legal right to accept deposits that the depositor has the legal right to withdraw on demand and to engage in the business of making commercial loans or; (b) is a national bank which engages only in credit card operations, does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others, does not accept any savings or time deposits of

less than \$100,000, ~~accepts deposits only from corporations which own 51% or more of the voting shares of the bank holding company or its parent corporation, as defined by K.S.A. 9-519, and amendments thereto, of which the bank engaging only in credit card operations is a subsidiary, as defined by K.S.A. 9-519, and amendments thereto,~~ maintains only one office that accepts deposits; and does not engage in the business of making commercial loans.

Sec. 31. K.S.A. 9-812 is hereby amended to read as follows: 9-812. ~~A~~ (a) ~~No bank corporation or trust company shall not~~ change its name until such name change has been submitted to and approved by the ~~state bank~~ commissioner.

(b) *The commissioner shall not approve the name selected for the bank if it is the name of any other bank: (1) Doing business in the same city or town; or*

(2) *within a 15-mile radius of the proposed location.*

(c) *The commissioner shall not approve the name selected for the trust company if it is the same or substantially similar name of any other trust company doing business in the state of Kansas.*

(d) *Any bank or trust company may request exemption from the commissioner from subsection (b) or (c).*

(e) *Upon approval of such name change, the bank must notify and make the necessary filings as may be required by the Kansas secretary of state's office.*

(f) *Any bank or trust company authorized to do business pursuant to the state banking code may use a name other than the name approved by the commissioner, provided:*

(1) *The bank or trust company must notify the commissioner, and the commissioner must approve, any use of a name other than the name approved by the commissioner;*

(2) *the bank's or trust company's actual name is prominently displayed adjacent to any other name displayed; and*

(3) *the bank or trust company continues to use the name approved by the commissioner in all legally enforceable documents and memoranda.*

Sec. 32. K.S.A. 9-901a is hereby amended to read as follows: 9-901a. (a) For purposes of this section, ~~the:~~ (1) ~~“Capital” of a bank or trust company shall be~~ means the total of the aggregate par value of its outstanding shares of capital stock, its surplus and its undivided profits;

(2) *“equity capital” means the total of common stock, preferred stock, surplus and undivided profits less intangibles; and*

(3) *“total assets” means the total of all tangible bank assets as reported on the daily balance sheet of the bank.*

(b) ~~The minimum capital of a bank or trust company in existence on July 1, 1975, shall be \$250,000 or such lesser amount as such bank or trust company had on July 1, 1975. With respect to a bank or trust com-~~

~~pany in existence on July 1, 1975, which thereafter transfers its place of business from one city to another, the minimum capital shall be the amount required by subsection (c).~~(1) *For banks organized on or after July 1, 2015, the minimum capital of a bank at the time of organization shall be the greater of \$3,000,000 or an amount equal to 8% of the proposed bank's estimated deposits five years after its organization. The capital shall be divided with 60% of the amount as the aggregate par value of outstanding shares of capital stock, 30% as surplus and 10% as undivided profits.*

(2) *For trust companies organized on or after July 1, 2015, the minimum capital shall at all times be \$500,000. The capital shall be divided with 60% of the amount as the aggregate par value of outstanding shares of capital stock, 30% as surplus and 10% as undivided profits.*

(3) *The state banking board may require that a bank or trust company have capital in excess of the amounts specified in this subsection if the state banking board determines that excess capital is necessary based on the character and qualifications of the proposed board of directors and the nature of the business of the bank or trust company.*

(c) *The minimum capital of a bank or trust company organized pursuant to K.S.A. 9-801(j), and amendments thereto, shall be determined by the commissioner, provided that the successor bank has obtained deposit insurance from the federal deposit insurance corporation or its successor.*

~~(c) The minimum capital of a bank or trust company organized as a corporation after July 1, 1975, or which thereafter transfers its place of business from one city to another, shall be as follows:~~

(1) ~~For a bank at least \$250,000 or at least an amount equal to 8% of its estimated deposits five years after its organization or transfer of place of business, whichever is greater, of which 60% shall be the aggregate par value of its outstanding shares of capital stock, 30% its surplus and 10% its undivided profits;~~

(2) ~~for a trust company at least \$250,000 of which 60% shall be the aggregate par value of its outstanding shares of capital stock, 30% its surplus and 10% its undivided profits.~~

~~The state banking board may require that the bank or trust company have capital in excess of the amounts specified in this subsection if the board determines that the amount and character of the anticipated business of the bank or trust company and the safety of the customers so require~~

(d) ~~All banks shall maintain a capital ratio of at least 5% of equity capital to total assets at all times. The minimum capital of a bank or trust company organized pursuant to subsection (b) of K.S.A. 9-1801, and amendments thereto, shall be determined by the commissioner, provided that the successor bank has obtained deposit insurance from the federal deposit insurance corporation or its successor~~

(e) ~~Any bank that relocates its main office from one city to another~~

pursuant to section 9, and amendments thereto, shall have equity capital equal to the greater of \$3,000,000 or 8% of its estimated deposits five years after the relocation.

(1) The commissioner, in the commissioner's discretion, may approve a relocation with a smaller equity capital amount if the bank can show that the circumstances surrounding the relocation warrant consideration of a lesser amount and the safety of depositors would not be impacted by requiring a lesser amount.

(2) If the main office relocation is part of an interchange of the main office with a branch location that has been in operation for at least one year, this equity capital requirement shall not apply.

~~(c) Except as may be provided elsewhere in this act, no bank or trust company shall reduce voluntarily its capital stock or surplus below the amounts required by this section~~

(f) Any national bank, federal savings association or federal savings bank which converts its charter to a state bank pursuant to K.S.A. 9-808, and amendments thereto, shall have a minimum capital ratio of 5% of equity capital to total assets at the time of its conversion. The capital division requirements of subsection (b) shall not apply.

(g) The commissioner may require that a bank or trust company have capital in excess of the amounts specified in subsections (b) through (d) if the commissioner determines that excess capital is necessary based on the character and qualifications of the proposed board of directors and nature of the business of the bank or trust company.

(h) Any bank that fails to meet the minimum capital ratio of 5% of equity capital to total assets required by this section shall notify the commissioner within three business days. Upon notice, the commissioner may require the bank to submit a written plan for restoring capital approved by the commissioner.

Sec. 33. K.S.A. 9-902 is hereby amended to read as follows: 9-902. (a) The common and preferred stock of any bank or trust company hereafter created shall be divided into shares of ~~\$5~~ \$1 each, or a any whole number multiple thereof. All subscriptions to such stock shall be paid in cash and any bank or trust company may change the par value of its shares to conform with this section.

~~(b) When~~ Any bank or trust company shall ~~may~~ reduce ~~its~~ the number of shares of common ~~capital~~ stock and ~~issue~~ replace them with a like amount of preferred stock, as long as the total dollar amount of capital stock is not changed. In lieu of such reduction, ~~it~~ reducing the number of shares of common stock, the bank may reduce the par value of the common stock in the proportion that the total amount of capital stock is reduced, ~~but~~ and replace it with preferred stock with a par value that is equal to the amount of the reduction in the par value of the common stock.

When the preferred stock is retired, the par value of the common shares shall be restored.

*(c) The requirements for a capital reduction pursuant to K.S.A. 9-904, and amendments thereto, and the requirements for new issue of preferred stock pursuant to K.S.A. 9-908, and amendments thereto, shall not apply to the circumstance described in this section.*

Sec. 34. K.S.A. 9-903 is hereby amended to read as follows: 9-903.

*(a) The shares of stock of any bank or trust company shall be deemed personal property and shall be transferred on the books of the bank or trust company in such manner as the bylaws thereof may direct.*

*(b) No transfer of stock shall be valid against the issuing bank or trust company so long as the registered owner thereof shall be liable as principal debtor, surety or otherwise to the bank or trust company on a matured, charged off or forgiven obligation, nor shall any. No dividend, interest or profit shall be paid on such stock so long as the registered owner thereof is indebted to the bank or trust company on a matured, charged off or forgiven obligation, but. All such dividends or profits shall be retained by the bank or trust company and applied to the discharge of any such obligations.*

*(c) No stock shall be transferred on the books of any bank or trust company when the bank or trust company is in a failing condition, or when its capital stock is impaired, except upon approval of the commissioner. ~~Whenever a transfer of shares of stock of any bank or trust company occurs which results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of 10% or more of the outstanding stock of the bank or trust company, and whenever additional shares of stock of the bank or trust company are transferred to such stockholder or affiliated group of stockholders, the president or other chief executive officer of the bank or trust company shall report such transfer to the commissioner within 10 days after transfer of the shares of stock on the books of the bank or trust company~~*

*(d) The president or other chief executive officer of a bank or trust company shall report to the commissioner within 10 days of the transfer of shares of stock on the books of the bank or trust company if there is a transfer of:*

*(1) Shares of stock that results in the direct or indirect ownership by a stockholder or an affiliated group of stockholders of 10% or more of the outstanding stock of the bank or trust company; or*

*(2) additional shares of stock to stockholders or an affiliated group of stockholders who own 10% or more of the outstanding stock of a bank or trust company.*

*(e) If there is a transfer of shares of stock that results in the direct or indirect ownership by a stockholder or an affiliate group of stockholders of 25% or more of the outstanding stock of the bank or trust company, a*

*change of control shall be filed pursuant to K.S.A. 9-1719 et seq., and amendments thereto.*

Sec. 35. K.S.A. 9-904 is hereby amended to read as follows: 9-904. ~~(a) The capital stock of any bank or trust company may be reduced to the minimum provided by law for a new bank or trust company by resolution adopted by the stockholders representing  $\frac{2}{3}$  of the voting stock of such bank or trust company, except that no such reduction shall become effective until the commissioner approves the same.~~

~~(b)~~*(a)* With prior approval of the ~~state bank~~ commissioner, a bank or trust company may reduce *the amount of* its capital stock ~~below the minimum amount allowed by subsection (a) by transferring capital stock to its surplus fund account.~~ No such reduction shall be approved unless the ~~state bank~~ commissioner finds *that*:

(1) The proposed reduction is necessary to provide greater operational flexibility to an adequately capitalized, well-managed institution;

(2) the proposed reduction does not result in or is not in furtherance of a reduction in the institution's capital to an amount below ~~8% of total deposits for a bank or below \$250,000 for a trust company~~ *the amount required by K.S.A. 9-901(a), and amendments thereto;*

(3) the proposed reduction is not intended to delay, prevent or be in lieu of capital stock impairment or a stockholder's assessment pursuant to K.S.A. 9-906, and amendments thereto; ~~and~~

(4) the proposed reduction poses no significant risk to the financial stability, safety or soundness of the institution-;

(5) *the bank's surplus account will be increased in an amount equal to the amount of the proposed reduction in the capital stock account, unless a waiver is granted by the commissioner; and*

(6) *a resolution approving the reduction has been adopted by the stockholders representing  $\frac{2}{3}$  of the voting stock of the bank or trust company.*

*(b) Upon completion of the reduction, the bank or trust company shall file with the commissioner a list of its stockholders and the amount of stock held by each.*

~~(c) After the commissioner has approved such reduction a certificate signed by the president and cashier of the bank or trust company setting forth the result of such reduction of its capital stock, the names of its stockholders and the amount of stock held by each, shall be filed with the secretary of state and a duplicate shall be filed with the commissioner.~~

~~(d)~~*(c)* Whenever the capital stock of any bank or trust company shall be reduced as herein provided, every stockholder, owner or holder of any stock certificate shall surrender the same for cancellation and shall be entitled to receive a new certificate for such person's proportion of the new stock. No dividends shall be paid to any such stockholder until the old certificate is surrendered.

Sec. 36. K.S.A. 9-905 is hereby amended to read as follows: 9-905. The capital stock of any bank or trust company may be increased. The president and cashier shall forward a verified statement to the commissioner showing the amount of the increase, *paid in full*, the names and addresses of the subscribers; *and the amount subscribed by each* ~~and that the same has been paid in full to the bank or trust company.~~ The date ~~and amount of such increase also shall be certified to the secretary of state.~~

Sec. 37. K.S.A. 9-906 is hereby amended to read as follows: 9-906. (a) Whenever it shall appear that the capital stock of any bank or trust company is impaired, the commissioner shall notify ~~such the~~ bank or trust company to restore the capital stock within 90 days of receipt of such notice.

(b) *For purposes of this section, "impairment" means that charges or losses to the bank or trust company's capital accounts have been sufficient to eliminate all of the bank or trust company's allowance for loan and lease loss, undivided profits, surplus fund and any other capital reserves and has brought the book amount of the capital stock value below its par value.*

(c) Within 15 days of receipt of ~~such the~~ impairment notice from the commissioner, the board of directors of ~~such the~~ bank or trust company shall levy an assessment on the common stockholders sufficient to restore the capital stock.

(d) ~~Such~~ A bank or trust company ~~with its board's approval~~ may reduce its capital stock to the extent of the impairment, if such reduction ~~will not reduce the capital stock below the amount required by this act is conducted pursuant to the requirements of K.S.A. 9-904, and amendments thereto.~~

Sec. 38. K.S.A. 9-907 is hereby amended to read as follows: 9-907. (a) Whenever any stockholder of a bank or trust company or an assignee of such stockholder, fails to pay any assessment ~~on such stockholder's stock when the same is required to be paid as required by K.S.A. 9-906, and amendments thereto,~~ the directors of ~~such the~~ bank or trust company may sell the stock of such delinquent stockholder, or so much ~~thereof of the stock as shall be necessary,~~ to satisfy the assessment and any *related incidental expenses incident thereto*, within 120 days of the bank or trust company's receipt of impairment notice, ~~to any person paying the highest price therefor, which price shall be not less than the amount due upon such stock with any expense incident thereto, and such sale may be either public or private. If sold at private sale and the price offered by any nonstockholder shall not exceed the highest bid of any stockholder, then such stock shall be sold to the stockholder. If such sale shall be public, then three weeks' notice thereof, published in a newspaper of general circulation in the city or county where the bank or trust company is lo-~~

~~eated, shall be given. The excess, if any, realized upon the sale of the stock shall be paid to the delinquent stockholder unless such stockholder is further indebted to the bank or trust company then it may be retained by the bank or trust company as an offset. If no purchaser can be found for such stock upon the terms herein stated the stock shall be forfeited to the bank or trust company to be disposed of within six months from the date of the public or private sale as the board of directors shall determine.~~

*(b) The sale of stock of a delinquent stockholder may be either public or private. The bank or trust company may sell the stock to any person paying the highest price, however, the price shall not be less than the amount due upon the stock, including any incidental expenses. If the stock is sold at private sale and the price offered by any non-stockholder does not exceed the highest bid of any stockholder, then such stock shall be sold to the stockholder. If the stock is sold at a public sale, then notice of the public sale shall be published on the same day for two consecutive weeks, in a newspaper of general circulation in the city or county where the bank or trust company is located.*

*(c) Any excess moneys realized from the sale of the stock shall be paid to the delinquent stockholder, unless the stockholder is indebted to the bank or trust company. If the stockholder has debt, then the excess may be retained by the bank or trust company as an offset against the debt.*

*(d) If no purchaser can be found for the stock at the public or private sale, it shall be forfeited to the bank or trust company to be disposed of as the board of directors shall determine within six months from the date of the public or private sale. If the stock cannot be disposed of within six months, the bank or trust company may request permission from the commissioner for additional time to dispose of the stock.*

Sec. 39. K.S.A. 9-908 is hereby amended to read as follows: 9-908. ~~Any bank or trust company may issue preferred stock of one or more classes in such amounts as shall be approved by the state bank commissioner. The holders of  $\frac{2}{3}$  in amount of the common stock of such bank or trust company must approve such issuance at a meeting held for that purpose and for which notice by registered mail must be given to each stockholder by mailing such notice at least five days in advance of the date of the meeting. No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in. With the approval of the state banking board the common stock may be reduced below the requirements contained in K.S.A. 9-901a, and amendments thereto (a) Upon the affirmative vote of  $\frac{2}{3}$  of the voting shares of the common stock of a bank or trust company, and with the prior approval of the commissioner, a bank or trust company may issue preferred stock of one or more classes. The stockholders shall have a meeting to vote on the issuance of~~

*preferred stock. Notice of this meeting shall be given to all stockholders at least five days in advance of the date of the meeting by registered mail.*

(b) No preferred stock shall be retired unless the common stock shall be increased in an amount equal to the amount of the preferred stock retired. All preferred stock shall be retired consistent with safety to the depositors.

Sec. 40. K.S.A. 9-909 is hereby amended to read as follows: 9-909. The holders of preferred stock shall not be liable for assessments to restore any impairment in the capital stock of a bank or trust company.

No dividends shall be declared or paid on common stock until all cumulative dividends, if any, on the preferred stock shall have been paid; ~~and~~. If the bank or trust company is dissolved or placed in liquidation no payments shall be made to the holders of common stock until the holders of the preferred stock *are first shall have been* paid in full for any sums due upon ~~such~~ *the* preferred stock.

Sec. 41. K.S.A. 9-910 is hereby amended to read as follows: 9-910. ~~No bank or trust company during the time it shall continue in business, shall permit to be withdrawn in the form of dividends, any portion of its capital stock~~ *No dividends shall be paid from the capital stock account of a bank or trust company.* The current dividends of any bank or trust company shall be paid from undivided profits after deducting losses, ~~to be ascertained.~~ *These losses are determined by using* generally accepted accounting principles at the time of making ~~such~~ *the* dividend. ~~Any bank or trust company may reduce its capital stock as provided in this act.~~

Sec. 42. K.S.A. 9-911 is hereby amended to read as follows: 9-911. (a) The directors of any bank or trust company may declare *cash* dividends ~~only from the undivided profits, but before the declaration of any dividend each bank or trust company.~~ *Before paying this dividend, the directors shall ensure that the surplus fund equals or exceeds the capital stock account. If the surplus fund is less than the capital stock account, the directors shall transfer 25% of its the net profits of the bank or trust company, since the last preceding dividend from undivided profits to its the surplus fund, until except no additional transfers shall be required once the surplus fund shall equal equals the total capital stock account.*

(b) *The directors of any bank or trust company may not declare or pay an asset dividend, other than cash dividends allowed pursuant to subsection (a), without prior approval from the commissioner.*

Sec. 43. K.S.A. 9-912 is hereby amended to read as follows: 9-912. (a) Any losses sustained by a bank or trust company in excess of its undivided profits may be charged to its surplus fund.

(b) Any bank or trust company, after receiving approval from the commissioner, may declare a stock dividend from its surplus fund, but no ~~such~~ dividend shall reduce the surplus fund to an amount less than 30% of the resulting total capital ~~and~~.

(c) Any bank or trust company may reduce its surplus *account* with permission of the ~~state bank~~ commissioner.

Sec. 44. K.S.A. 2014 Supp. 9-1101 is hereby amended to read as follows: 9-1101. (a) Any bank hereby is authorized to exercise by its board of directors or duly authorized officers or agents, subject to law, ~~all such powers, including incidental the following powers, as shall be necessary to carry on the business of banking, and:~~

(1) ~~To receive deposits and to pay interest thereon at rates which need not be uniform on deposits. The state bank commissioner, with approval of the state banking board, may by rules and regulations of general application fix maximum rates of interest to be paid on deposit accounts other than accounts for public moneys;~~

(2) ~~to buy and, sell exchange, discount or negotiate domestic currency, gold, silver, foreign coin currency, bullion, commercial paper, bills of exchange, notes and bonds; Foreign currency shall not be bought, sold, discounted or negotiated for investment purposes;~~

(3) ~~to buy and sell bonds, securities, or other evidences of indebtedness of the United States of America or those fully guaranteed, directly or indirectly, by it, and general obligation bonds of the state of Kansas or any municipality or quasi-municipality thereof, and of other states, and of municipalities or quasi-municipalities in other states of the United States of America. No bank shall invest an amount in excess of 15% of its capital stock paid in and unimpaired and the unimpaired surplus fund of such bank in bonds, securities or other evidences of indebtedness of any municipality or quasi-municipality of any other state or states of the United States of America: (a) If and when the direct and overlapping indebtedness of such municipality or quasi-municipality is in excess of 10% of its assessed valuation, excluding therefrom all valuations on intangibles and homestead exemption valuation; (b) or if any bond, security, or evidence of indebtedness of any such municipality or quasi-municipality has been in default in the payment of principal or interest within 10 years prior to the time that any bank acquires any such bonds, security or evidence of indebtedness;~~

(4) ~~to make all types of loans, including loans on real estate, subject to the loan limitations contained in this act. Every real estate loan shall be secured by a mortgage or other instrument constituting a lien, or the full equivalent thereof, upon the real estate securing the loan, according to any lawful or well recognized practice, which is best suited to the transaction. The mortgage may secure future advances. The lien of such mortgage shall attach upon its execution and have priority from time of recording as to all advances made thereunder until such mortgage is released of record. The lien of such mortgage shall not exceed at any one time the maximum amount stated in the mortgage the state banking code;~~

(4) (A) *to buy and sell bonds, securities, or other evidences of indebtedness, including temporary notes, of:*

(i) *The United States of America or those fully guaranteed, directly or indirectly, by it; or*

(ii) *general obligations of any state of the United States of America or any municipality or quasi-municipality thereof.*

(B) *No bank shall invest in bonds, securities or other evidences of indebtedness if:*

(i) *The direct and overlapping indebtedness of such municipality or quasi-municipality is in excess of 10% of its assessed valuation, excluding therefrom all valuations on intangibles and homestead exemption valuation; or*

(ii) *any bond, security, or evidence of indebtedness of any such municipality or quasi-municipality that has been in default in the payment of principal or interest within 10 years prior to the time that any bank acquires any such bonds, security or evidence of indebtedness;*

(5) ~~to discount and negotiate bills of exchange, negotiable notes and notes not negotiable~~ *to buy and sell investment securities which are evidences of indebtedness limited to buying and selling without recourse marketable obligations evidencing indebtedness of any state or federal agency, including revenue bonds issued pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board in the form of bonds, notes or debentures or both. The total amount of such investment securities of any one obligor or maker held by such bank shall at no time exceed 25% of the capital stock, surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies of such bank, except that this limit shall not apply to obligations of the United States government or any agency thereof;*

(6) ~~to buy and sell investment securities which are evidences of indebtedness. The buying and selling of investment securities shall be limited to buying and selling without recourse marketable obligations evidencing indebtedness of any person, copartnership, association, or corporation, or state or federal agency, including revenue bonds issued pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board in the form of bonds, notes or debentures or both, commonly known as investment securities, under such further definition of the term "investment securities" as prescribed by the board, but the~~ *The total amount of such investment securities of any one obligor or maker held by such bank shall at no time exceed 25% of the capital stock paid in and unimpaired and the unimpaired surplus fund of such bank except that this limit shall not apply to obligations of the United States government or any agency thereof. If the obligor is a state agency including any agency issuing revenue bonds pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board, the total amount of such investment securities shall at no time exceed 25% of the capital stock paid in and*

~~unimpaired and the unimpaired surplus fund of such bank surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies of such bank;~~

~~(7) to subscribe to, buy and own such stock of the federal national mortgage association as required by title 3, section 303 of the federal act known as the national housing act as amended by section 201 of public law No. 560, of the United States (68 Stat. 613-615), known as the housing act of 1954, or amendments thereto~~ to subscribe to, buy, hold and sell stock of:

(A) *The federal national mortgage association in accordance with the national housing act;*

(B) *the federal home loan mortgage corporation in accordance with the federal home loan mortgage corporation act;*

(C) *the federal agricultural mortgage corporation, provided no bank's investment in such corporation shall exceed 5% of its capital stock, surplus and undivided profits; and*

(D) *a federal home loan bank. Any bank may also become a member of a federal home loan bank;*

(8) to subscribe to, buy and own stock in one or more small business investment companies in Kansas as otherwise authorized by federal law, except that in no event shall any bank acquire shares in any small business investment company if, upon the making of that acquisition, the aggregate amount of shares in small business investment companies then held by the bank would exceed 5% of its capital and surplus. ~~Nothing in this act contained shall prohibit any bank from holding and disposing of such real estate and other property as it may acquire in the collection of its assets;~~

(9) to subscribe to, buy and own stock in any agricultural credit corporation or livestock loan company, or its affiliate, organized pursuant to the provisions of the laws of the United States providing for the information and operation of agricultural credit corporations and livestock loan companies, in an amount not exceeding either the undivided profits or 10% of the capital stock and surplus and undivided profits from such bank, whichever is greater;

~~(10) to subscribe to, buy and own stock in minbane capital corporation, a company formed for the purpose of providing capital to minority-owned banks. No bank's investment in such stock shall exceed 2% of its capital and surplus;~~

~~(11)~~ (10) to buy, hold, and sell any type of investment securities not enumerated in this section with approval of the commissioner and upon such conditions and under such regulations as are prescribed by the state banking board;

~~(12)~~ (11) to act as escrow agent;

~~(13)~~ (12) to subscribe to, acquire, hold and dispose of stock of a corporation having as its purpose the acquisition, holding and disposition of loans secured by real estate mortgages, and to acquire, hold and dispose

of the debentures and capital notes of such corporation. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits and such investment shall be carried on the books of the bank as directed by the commissioner;

~~(14)~~(13) to purchase and sell securities and stock without recourse solely upon the order, and for the account, of customers;

~~(15)~~(14) to subscribe to, acquire, hold and dispose of any class of stock, debentures and capital notes of MABSCO agricultural services, inc. or any similar corporation having as its purpose the acquisition, holding and disposition of agricultural loans originated by Kansas banks. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits. ~~Such investment shall be carried on the books of the bank as directed by the commissioner;~~

~~(16)~~ to buy, hold and sell mortgages, stock, obligations and other securities which are issued or guaranteed by the federal home loan mortgage corporation under sections 305 and 306 of the federal act known as the federal home loan mortgage corporation act (P.L. 91-351);

~~(17)~~ to buy, hold and sell obligations or other instruments or securities, including stock, issued or guaranteed by the student loan marketing association created by (P.L. 92-318) of the United States;

~~(18)~~(15) to engage in financial future contracts on United States government and agency securities subject to such rules and regulations as the ~~state bank~~ commissioner may prescribe pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices;

~~(19)~~(16) to subscribe to, buy and own stock in a bankers' bank organized under the laws of the United States, this state; or any other state, or a one bank holding company which owns or controls such a bankers' bank, except no bank's investment in such stock shall exceed 10% of its capital stock, surplus and undivided profits;

~~(20)~~(17) subject to such rules and regulations as the state bank commissioner may adopt pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices, upon recorded prior approval by the board of directors of the initial investment in a specific company and pursuant to an investment policy approved by the board of directors which specifically provides for such investments to buy, hold and sell shares of an open-end investment company registered with the federal securities and exchange commission under the federal investment company act of 1940 and the federal securities act of 1933 and of a privately offered company sponsored by an affiliated commercial bank, the shares of which are purchased and sold at par and the assets of which consist solely of securities which may be purchased by the bank for its own account. Such shares may be purchased without limit if the assets of the company consist solely of and are limited to obligations that are eligible for purchase by the bank without limit. If the assets of the company include securities which may be purchased by the bank subject

~~to limitation, such shares may be purchased subject to the limitation applicable to purchase by the bank of such securities in a manner consistent with the parameters outlined by the office of the comptroller of the currency in banking circular 220, as such circular was issued on November 21, 1986;~~

~~(21)(18)~~ subject to the prior approval of the ~~state bank~~ commissioner and subject to such rules and regulations as are adopted by the ~~state bank~~ commissioner pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices, a bank may establish a subsidiary which engages in the following securities activities: ~~(a)~~ (A) Selling or distributing stocks, bonds, debentures, notes, mutual funds and other securities; ~~(b)~~ (B) issuing and underwriting municipal bonds; ~~(c)~~ (C) organizing, sponsoring and operating mutual funds; ~~(d) or (D)~~ acting as a securities broker-dealer;

~~(22)~~ to subscribe to, acquire, hold and dispose of stock of any class of the federal agricultural mortgage corporation, a corporation having as its purpose the acquisition, holding and disposition of loans secured by agricultural real estate mortgages. No bank's investment in such corporation shall exceed 5% of its capital stock, surplus and undivided profits and such investment shall be carried on the books of the bank as directed by the commissioner;

~~(23)(19)~~ to subscribe to, buy and own stock in an insurance company incorporated prior to 1910, under the laws of Kansas, with corporate headquarters in this state, which only provides insurance to financial institutions. The investment in such stock shall not exceed 2% of the bank's capital stock, surplus and undivided profits;

~~(24)(20)~~ to purchase and hold an interest in life insurance policies *and, to the extent applicable, to purchase and hold an annuity* in a manner consistent with the parameters outlined in the interagency statement of the purchase and risk management of life insurance, issued by the office of the comptroller of the currency, the board of governors of the federal reserve system, the federal deposit insurance corporation and the office of the thrift supervision on December 7, 2004; and set out in the respective agencies' issuances, including the federal deposit insurance corporation financial institution letter 127-2004, effective December 7, 2004, subject to the following limitations:

~~(a)~~(A) The cash surrender value of any life insurance policy or policies underwritten by any one life insurance company shall not at any time exceed 15% of the bank's capital stock, surplus, undivided profits, allowance for loan and lease losses, capital notes and debentures and reserve for contingency, unless the bank has obtained the prior approval of the ~~state bank~~ commissioner;

~~(b)~~(B) the cash surrender value of life insurance policies, in the aggregate from all companies, cannot at any time exceed 25% of the bank's capital stock, surplus, undivided profits, allowance for loan and lease

losses, capital notes and debentures and reserve for contingency, unless the bank has obtained the prior approval of the state bank commissioner; and

~~(e)~~(C) the limitations set forth in ~~paragraphs (a) and (b) subparagraphs (A) and (B)~~ shall not apply to any life insurance policy in place prior to July 1, 1993;

~~(25)~~(21) ~~subject to such rules and regulations as the state bank commissioner may adopt pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices, to act as an agent and receive deposits, renew time deposits, close loans, service loans; and receive payments on loans and other obligations for any company which is a subsidiary, as defined in subsection (d) of K.S.A. 9-519, and amendments thereto, of the bank holding company which owns the bank. Nothing in this subsection shall authorize a bank to conduct activities as an agent which the bank or the subsidiary would be prohibited from conducting as a principal under any applicable federal or state law. Any bank which enters or terminates any agreement pursuant to this subsection shall within 30 days of the effective date of the agreement or termination provide written notification to the commissioner which details all parties involved and services to be performed or terminated;~~

~~(26)~~(22) ~~to make loans to the bank's stockholders or the stockholders of the bank's controlling bank holding company stockholders on the security of the shares of the bank or shares of the bank's controlling bank holding company, with the limitation that this but loans on the security of the shares of the bank may occur only if the bank would have extended credit to such stockholder on exactly the same terms without the bank shares pledged as collateral;~~

~~(27)~~(23) ~~to make investments in and loans to community development corporations (CDCs) and community development projects (CD projects) and economic development entities as defined in K.S.A. 9-701, and amendments thereto, subject to the limitations prescribed by the comptroller of the currency as interpreted by rules and regulations which shall be adopted by the state bank commissioner as provided by K.S.A. 9-1713, and amendments thereto community reinvestment act pub.l. 95-128, title VIII, 91 Stat. 1147, 12 U.S.C. § 2901 et seq.;~~

~~(28)~~(24) ~~to participate in a school savings deposit program authorized under K.S.A. 9-1138, and amendments thereto;~~

~~(29)~~(25) ~~with prior approval of the commissioner, to offer through one or more control or hold an interest in a financial subsidiaries any products or services which a national bank may offer through its financial subsidiaries, subject to safety and soundness requirements imposed by the commissioner subsidiary. As used in this paragraph, "financial subsidiary" shall have the same meaning given to such term under the Gramm-Leach Bliley act of 1999 (P.L. 106-102); and~~

~~(30) to purchase or hold an annuity for the sole purpose of funding~~

~~an employee deferred compensation and benefit plan subject to the limitations prescribed by rules and regulations which shall be adopted by the state bank commissioner as provided by K.S.A. 9-1713, and amendments thereto.~~

(A) *The financial subsidiary may engage in one or more of the following activities:*

(i) *Lending, exchanging, transferring, investing for others or safeguarding money or securities;*

(ii) *acting as agent or broker for purposes of insuring, guaranteeing or indemnifying against loss, harm, damage, illness, disability, death or providing annuities as agent or broker subject to the requirements of chapter 40 of the Kansas Statutes Annotated, and amendments thereto;*

(iii) *issuing or selling instruments representing interests in pools or assets permissible for a bank to hold directly;*

(iv) *operating a travel agency; and*

(v) *activities that are financial in nature as determined by the commissioner.*

(B) *Such activities do not include:*

(i) *Insuring, guaranteeing or indemnifying against loss, harm, damage, illness, disability, death or providing or issuing annuities the income of which is subject to tax treatment under 26 U.S.C. § 72;*

(ii) *real estate development or real estate investment, except as otherwise expressly authorized by Kansas law; or*

(iii) *any activity permitted for financial holding companies under 12 U.S.C. § 1843(k)(4)(H) and (I).*

(C) *As used in subsection (a)(25), “control” means:*

(i) *Directly or indirectly owning, controlling or having power to vote 25% or more of any class of the voting shares of a financial subsidiary;*

(ii) *controlling in any manner the election of a majority of the directors or trustees of the financial subsidiary; or*

(iii) *otherwise directly or indirectly exercising a controlling influence over the management or policies of the financial subsidiary, as determined by the commissioner;*

(26) *to maintain and operate a postal substation on banking premises, in accordance with the rules and regulations of the United States postal service. The bank may advertise the services of the substation for the purpose of attracting customers to the bank and receive income therefrom. The bank shall keep the books and records of the substation separate from those of other banking operations;*

(27) *with prior approval of the commissioner, to invest in foreign bonds an amount not to exceed 1% of the bank’s capital or surplus as long as such bonds comply with the form and definition of investment securities;*

(28) *to act as an agent for any credit life, health and accident insurance, sometimes referred to as credit life and disability insurance, and*

*mortgage life and disability insurance in connection with extensions of credit and only as a source of protection for such extension of credit;*

(29) *to act as agent for any fire, life or other insurance company authorized to do business in this state at any approved office of the bank which is located in any place the population does not exceed 5,000 inhabitants. Such insurance may be sold to existing and potential customers of the bank regardless of the geographic location of the customers;*

(30) *to become a stockholder and member of the federal reserve bank of the federal reserve district where such bank is located;*

(31) *with prior approval of the commissioner, to acquire the stock of, or establish and operate a subsidiary to acquire the stock of, another insured depository institution or the holding company of the insured depository institution provided such acquisition is incidental to a reorganization otherwise authorized by the law of this state and which occurs nearly simultaneously with such acquisition;*

(32) *with prior approval of the commissioner, to establish and operate a subsidiary for the purpose of owning, holding and managing all or part of the bank's securities portfolio provided the parent bank owns 100% of the stock of the subsidiary and the subsidiary shall not own, hold or manage securities for any party other than the parent bank. The subsidiary shall be subject to:*

(A) *All banking laws and rules and regulations applicable to the parent bank unless otherwise provided;*

(B) *consolidation with the parent bank of pertinent book figures for the purpose of applying all applicable statutory limitations including, but not limited to, capital requirements, owning and holding real estate and legal lending limitations;*

(C) *examination and supervision by the commissioner, the cost and responsibility of which will be attributable to the parent bank; and*

(D) *any additional terms or conditions required by the commissioner to address any legal or safety and soundness concerns;*

(33) *with prior approval of the commissioner, to establish or acquire operating subsidiaries for the purpose of engaging in any activity which is part or incidental to the business of banking as long as the parent bank owns at least 50% of the stock of the subsidiary. The subsidiary shall be subject to:*

(A) *All banking laws and regulations applicable to the parent bank unless otherwise provided;*

(B) *consolidation with the parent bank of pertinent book figures for the purpose of applying all applicable statutory limitations including, but not limited to, capital requirements, owning and holding real estate and legal lending limitations;*

(C) *examination and supervision by the commissioner the cost and responsibility of which will be attributable to the parent bank; and*

(D) any additional terms or conditions required by the commissioner to address any legal or safety and soundness concerns;

(34) to invest in, without limitation, obligations of or obligations which are insured as to principal and interest by or evidences of indebtedness that are fully collateralized by obligations of the federal home loan banks, the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, the student loan marketing association and the federal farm credit banks; and

(35) any bank or trust company may invest in bonds or notes secured by mortgages which in turn are insured or upon which there is a commitment to insure by the federal housing administration, or any successor thereto, in debentures issued by the federal housing administration or its successor, and in obligations of national mortgage associations.

(b) Any bank hereby is authorized to exercise by the bank's board of directors or duly authorized officers or agents, subject to approval by the commissioner, any incidental power necessary to carry on the business of banking.

Sec. 45. K.S.A. 9-1101a is hereby amended to read as follows: 9-1101a. ~~In accordance with normal business considerations and~~ Upon approval of the stockholders owning  $\frac{2}{3}$  of the voting stock of the bank, the bank may issue convertible or nonconvertible capital notes or debentures in such amounts and under such terms and conditions as shall be approved by the ~~state bank~~ commissioner, except that the principal amount of capital notes or debentures outstanding at any time shall not exceed an amount equal to 100% of the bank's paid-in capital stock plus 50% of the amount of its unimpaired surplus fund. Capital notes or debentures which are by their terms expressly subordinated to the prior payment in full of all deposit liabilities of the bank shall be considered as part of the unimpaired capital funds of the bank for purpose of the computation of the bank's loan limit.

Sec. 46. K.S.A. 9-1102 is hereby amended to read as follows: 9-1102.

(a) Any bank or trust company may own, purchase, lease, hold, encumber or convey real property and ~~certain personal property subject to the following:~~

(1) ~~Own suitable building, furniture and fixtures, stock in a single trust company organized under the laws of the state of Kansas, and stock in a safe deposit company organized under the laws of the state of Kansas, and stock in a corporation organized under the laws of this state owning real estate all or a part of which is occupied or to be occupied by the bank or trust company;~~

(2) ~~purchase, hold, encumber and convey real estate or lease, as lessor or lessee, including any building or buildings. Any real estate not necessary for the bank's or trust company's accommodation in the transaction of its business. Real property shall be disposed of or charged off its the~~

~~bank's or trust company's books by the bank or trust company not later than seven years after its the real property's intended use for banking bank or trust purposes ends, unless the state bank commissioner authorizes the bank or trust company to retain such real estate on its books for a period not to exceed an additional three years. Before the end of the holding period, a bank or trust company may request authorization from the commissioner to hold the real property for an additional year. No bank or trust company shall be granted more than three requests for additional time to hold any one parcel of real property.~~

(b) Any bank or trust company may own, purchase, lease, hold, encumber or convey certain personal property necessary for the bank's or trust company's accommodation in the transaction of such bank's or trust company's business.

(c) Any bank may own all or part of the stock in a single trust company or safe deposit company organized under the laws of the state of Kansas.

(d) Any bank may own all of the stock in a corporation or limited liability company organized under the laws of the state of Kansas, owning real estate, all or a part of which is occupied or to be occupied by the bank or trust company.

~~(3)~~(e) A bank's or trust company's total investment or ownership at all times in any one or more of the following shall not exceed  $\frac{1}{2}$  50% of its unimpaired capital stock, surplus, undivided profits and capital notes and debentures; and any such excess shall be removed from the bank's or trust company's books unless approval is granted by the ~~state bank~~ commissioner:

~~(A)~~(1) The book value of real estate plus all encumbrances thereon;  
~~(B)~~(2) the book value of furniture and fixtures;  
~~(C)~~(3) the book value of stock in a safe deposit company;  
~~(D)~~(4) the book value of stock in a trust company; or  
~~(E)~~(5) the book value of stock in a corporation organized under the laws of this state owning real estate occupied by the bank or trust company and advances to such corporation acquired or made after July 1, 1973, except that any real estate not necessary for the accommodation of the bank's or trust company's business shall be disposed of or charged off its books according to ~~paragraph (2)~~ subsection (a).

~~(b)~~(f) Any bank or trust company may acquire or purchase real estate in satisfaction of any debts due it and may purchase real estate in satisfaction of any debts due it such bank or trust company, and may purchase real estate at judicial sales, ~~but~~ subject to the following:

(1) No bank or trust company shall bid at any judicial sale a larger amount than is necessary to protect its debts and costs.

(2) No real estate or interest in oil and gas leasehold acquired in the satisfaction of debts or upon judicial sales shall be carried as a book asset of the bank or trust company for more than 10 years.

(3) At the termination of the 10 years such real estate shall be charged off. The commissioner may grant an extension not to exceed four years, if in the commissioner's judgment, it will be to the advantage of the bank or trust company to carry the real estate as an asset for such extended period. Any such extensions issued shall be reviewed by the commissioner on an annual basis.

(g) *No bank or trust company may buy and sell real estate as a business.*

(h) *A bank may hold or sell any personal property coming into ownership of the bank in the collection of debts. All such property, except legal investments, shall be sold within one year of acquisition, provided a commercially reasonable sale can occur. If a commercially reasonable sale cannot occur within one year, the commissioner may authorize a bank to carry such property as a book asset for a longer period. The bank shall not carry such property as a nonbook asset.*

(i) *The time periods for holding real estate or other property shall begin when:*

(1) *The bank has received title or deed to the property;*

(2) *the property is in a redemption period following the bank's purchase at a judicial sale; or*

(3) *the bank has actual control of the property.*

(j) *With prior notification to the commissioner, any bank may operate a wholly owned subsidiary corporation or limited liability company which holds and manages property acquired through debt previously contracted. The subsidiary shall be subject to:*

(1) *All banking laws and rules and regulations applicable to the parent bank unless otherwise provided;*

(2) *consolidation with the parent bank of pertinent book figures for the purpose of applying all applicable statutory limitations including, but not limited to, capital requirements, owning and holding real estate and legal lending limitations;*

(3) *examination and supervision by the commissioner, the cost and responsibility of which will be attributable to the parent bank; and*

(4) *any additional terms or conditions required by the commissioner to address any legal or safety and soundness concerns.*

(k) (1) *With prior approval of the commissioner, any bank may exchange such bank's participation interest in real estate acquired or purchased in satisfaction of any debts previously contracted for an interest in a corporation or limited liability company which will manage, market and dispose of the real property. Prior to the exchange, the bank's directors must:*

(A) *Find and document that the exchange is in the best interest of the bank and would improve the ability of the bank to recover, or otherwise limit, the bank's loss on real estate acquired through debts previously contracted;*

(B) *certify that the bank's loss exposure is limited, as a legal and accounting matter, and that the bank does not have open-ended liability for the obligations of the corporation or limited liability company;*

(C) *certify that the corporation or limited liability company agrees to be subject to the supervision and examination by the commissioner; and*

(D) *ensure that the corporation or limited liability company complies with this section and K.A.R. 17-11-17, including obtaining a current appraisal of the real estate.*

(2) *A bank may not further exchange the bank's interest in the corporation or limited liability company for an interest in any other real or personal property.*

Sec. 47. K.S.A. 2014 Supp. 9-1104 is hereby amended to read as follows: 9-1104. (a) *Definitions.* As used in this section:

(1) "Borrower" means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, limited liability company, not-for-profit corporation, *state government of the United States or a United States government unit or agency, instrumentality, or political subdivision thereof; or any similar entity or organization.*

(2) "Capital" means the total of capital stock, surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures; and reserve for contingencies. Intangibles, such as goodwill, shall not be included in the definition of capital when determining lending limits.

(3) "Loan" means:

(A) A bank's direct or indirect advance of funds to or on behalf of a borrower based on an obligation of the borrower to repay the funds;

(B) a contractual commitment to advance funds;

(C) an overdraft;

(D) loans that have been charged off the bank's books in whole or in part, unless the loan is unenforceable by reason of:

(i) Discharge in bankruptcy;

(ii) expiration of the statute of limitations;

(iii) judicial decision; or

(iv) the bank's forgiveness of the debt;

(E) any credit exposure to a borrower arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction or securities borrowing transaction between a bank and that borrower.

(4) "Derivative transaction" means any transaction that is a contract, agreement, swap, warrant, note or option that is based in whole, or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices or other assets.

(b) *General lending limit rule.* Subject to the provisions in *subsections*

(d), (e) and (f), loans to one borrower, including any bank officer or employee, shall not exceed 25% of a bank's capital.

(c) *Calculation of the lending limit.* (1) The bank's lending limit shall be calculated on the date the loan or written commitment is made. The renewal or refinancing of a loan shall not constitute a new lending limit calculation date unless new funds are advanced.

(2) If the bank's lending limit increases subsequent to the origination date, a bank may use the current lending limit to determine compliance when advancing funds. An advance of funds includes the lending of money or the repurchase of any portion of a participation.

(3) If the bank's lending limit decreases subsequent to the origination date, a bank is not prohibited from advancing on a prior commitment that was legal on the date the commitment was made.

(d) *Exemptions.* (1) *Overnight federal funds.*

(2) That portion of a loan which is continuously secured on a dollar for dollar basis by any of the following will be exempt from any lending limit:

~~(1)~~(A) A guaranty, commitment or agreement to take over or to purchase, made by any federal reserve bank or by any department, bureau, board, commission, agency or establishment of the United States of America, including any corporation wholly owned, directly or indirectly by the United States;

~~(2)~~(B) a perfected interest in a time deposit account in the lending bank. In the case of a time deposit which may be withdrawn in whole or in part prior to maturity, the bank shall establish written internal procedures to prevent the release of the deposit;

~~(3)~~(C) a bonded warehouse receipt issued to the borrower by some other person;

~~(4)~~(D) treasury bills, certificates of indebtedness; or bonds or notes of the United States of America or instrumentalities or agencies thereof; or those fully guaranteed by them;

~~(5)~~(E) general obligation bonds or notes of the state of Kansas or any other state in the United States of America;

~~(6)~~(F) general obligation bonds or notes of any Kansas municipality or quasi-municipality; or

~~(7)~~(G) a perfected interest in a repurchase agreement of United States government securities with the lending bank.

(e) *Special rules.* (1) The total liability of any borrower may exceed the general 25% limit by up to an additional 10% of the bank's capital. To qualify for this expanded limit:

(A) The bank shall have as collateral a *recorded* first lien or liens on real estate securing a portion of the *borrower's total* liability equal to at least the amount by which the total liability exceeds the 25% limit;

(B) ~~the amount of the recorded lien or liens shall equal at least the amount of the excess liability;~~

~~(C)~~—the appraised value of the real estate shall equal at least twice the amount of the excess liability by which the borrower's total liability exceeds the 25% limit; and

~~(D)~~(C) a portion of the loan borrower's total liability, equal to at least the excess liability amount by which the total liability exceeds the 25% limit, shall have amortize within 20 years by regularly scheduled installment payments sufficient to amortize that portion within 20 years.

(2) That portion of any loan endorsed or guaranteed by a borrower will not be added to that borrower's liability until the endorsed or guaranteed loan is past due 10 days.

(3) If the total liability of any active bank officer shareholder owning 25% or more of any class of voting shares, officers or directors will exceed \$50,000, prior approval from the bank's board of directors shall be noted in the minutes.

(4) To the extent they are insured by the federal deposit insurance corporation, time deposits purchased by a bank from another financial institution shall not be considered a loan to that financial institution and shall not be subject to the bank's lending limit.

(5) Third-party paper purchased by the bank will not be considered a loan to the seller unless and until the bank has the right under the agreement to require the seller to repurchase the paper.

(f) *Combination rules.*

(1) *General rule.* Loans to one borrower will be attributed to another borrower and their total liability will be combined:

(A) When proceeds of a loan are to be used for the direct benefit of the other borrower, to the extent of the proceeds so used; or

(B) when a common enterprise is deemed to exist between the borrowers.

(2) *Direct benefit.* The proceeds of a loan to a borrower will be deemed to be used for the direct benefit of another person and will be attributed to the other person when the proceeds, or assets purchased with the proceeds, are transferred to another person, other than in a bona fide arm's length transaction where the proceeds are used to acquire property, goods or services.

(3) *Common enterprise.* A common enterprise will be deemed to exist and loans to separate borrowers will be aggregated:

(A) When the expected source of repayment for each loan or extension of credit is the same for each borrower and neither borrower has another source of income from which the loan, together with the borrower's other obligations, may be fully repaid;

(B) when both of the following circumstances are present:

(i) Loans are made to borrowers who are related directly or indirectly through common control, including where one borrower is directly or indirectly controlled by another borrower. Common control means to own, control or have the power to vote 25% or more of any class of voting

securities or voting interests or to control, in any manner, the election of a majority of the directors; or to have the power to exercise a controlling influence over the management or policies of another person; and

(ii) substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence is deemed to exist when ~~50 percent~~ 50% or more of one borrower's gross receipts or gross expenditures ~~(, on an annual basis)~~, are derived from transactions with the other borrower. Gross receipts and expenditures include gross revenues, expenses, intercompany loans, dividends, capital contributions and similar receipts or payments; or

(C) when separate persons borrow from a bank to acquire a business enterprise of which those borrowers will own more than 50% of the voting securities or voting interests, in which case a common enterprise is deemed to exist between the borrowers for purposes of combining the acquisition loan.

(D) An employer will not be treated as a source of repayment for purposes of determining a common enterprise because of wages and salaries paid to an employee.

(4) *Special rules for loans to a corporate group.* (A) Loans by a bank to a borrower and the borrower's subsidiaries shall not, in the aggregate, exceed 50% of the bank's capital. At no time shall loans to any one borrower or to any one subsidiary exceed the general lending limit of 25%, except as allowed by other provisions of this section. For purposes of this paragraph, a corporation or a limited liability company is a subsidiary of a borrower if the borrower owns or beneficially owns directly or indirectly more than ~~50 percent~~ 50% of the voting securities or voting interests of the corporation or company.

(B) Loans to a borrower and a borrower's subsidiaries that do not meet the test contained in subsection (f)(4)(A) will not be combined unless either the direct benefit or the common enterprise test is met.

(5) *Special rules for loans to partnerships, joint ventures and associations.* (A) As used in this ~~subpart (5)~~ paragraph, the term "partnership" shall include a partnership, joint venture or association. The term partner shall include a partner in a partnership or a member in a joint venture or association.

(B) *General partner.* Loans to a partnership are considered to be loans to a partner; if, by the terms of the partnership agreement, that partner is held generally liable for debts or actions of the partnership.

(C) *Limited partner.* If the liability of a partner is limited by the terms of the partnership agreement, the amount of the partnership debt attributable to the partner is in direct proportion to that partner's limited partnership liability.

(D) Notwithstanding the provisions of subsections (f)(5)(B) and (f)(5)(C), if by the terms of the loan agreement the liability of any partner

is different than delineated in the partnership agreement, for the purpose of attributing debt to the partner, the loan agreement shall control.

(E) Loans to a partner are not attributed to the partnership unless either the direct benefit or the common enterprise test is met.

(F) Loans to one partner are not attributed to other partners unless either the direct benefit or common enterprise test is met.

(G) When a loan is made to a partner to purchase an interest in a partnership, both the direct benefit and common enterprise tests are deemed to be met, and the loan is attributed to the partnership.

(6) Notwithstanding the provisions of this subsection, the commissioner may determine, based upon an evaluation of the facts and circumstances of a particular transaction, that a loan to one borrower may be attributed to another borrower.

(g) The commissioner may order a bank to correct any loan not in compliance with this section *within 60 days*. A violation of this section shall be deemed corrected if that portion of the borrower's liability which created the violation could be legally advanced under current lending limits. ~~Failure to comply with the commissioner's order within 60 days shall be grounds for the proposed removal of a bank officer or director pursuant to K.S.A. 9-1805, and amendments thereto.~~

Sec. 48. K.S.A. 9-1107 is hereby amended to read as follows: 9-1107. (a) Any bank may borrow an amount not to exceed 100% of ~~its~~ *the bank's* capital stock and surplus for temporary purposes. ~~This limitation shall not apply to any borrowing secured by~~ *The commissioner may authorize borrowing in excess of such limitation.*

(b) *Any bank may borrow without limitation upon legal investment securities; and rediscount and endorse in good faith any of the bank's negotiable notes without limitation.*

(c) ~~Any bank may borrow without limitation for borrowing authorized under the provisions of K.S.A. 1980 Supp. 12-5201 through 12-5218, inclusive, purposes of investing in bonds issued pursuant to K.S.A. 12-5219 et seq., and any amendments thereto, or for borrowing authorized under the provisions of public law 94-499, the mortgage subsidy bond tax act of 1980. The state bank commissioner may authorize borrowing in excess of such limitation. Any bank may borrow upon legal investment securities and rediscount and endorse in good faith any of its negotiable notes, without limitation.~~

Sec. 49. K.S.A. 2014 Supp. 9-1111 is hereby amended to read as follows: 9-1111. The general business of every bank shall be transacted at the place of business specified in ~~its~~ *the bank's* certificate of authority and at one or more branch banks established and operated as provided in this section. ~~Except for the establishment or operation of a trust branch bank or the relocation of an existing trust branch bank pursuant to K.S.A. 9-1135, and amendments thereto,~~ It shall be unlawful for any bank to

establish and operate any branch bank or relocate an existing branch bank except as hereinafter provided. Notwithstanding the provisions of this section, any location at which a depository institution, as defined by K.S.A. 9-701, and amendments thereto, receives deposits, renews time deposits, closes loans, services loans or receives payments on loans or other obligations, as agent, for a bank pursuant to ~~subsection (25) of~~ K.S.A. 9-1101(a)(25), and amendments thereto, or other applicable state or federal law, or is authorized to open accounts or receive deposits under ~~subsection (28) of~~ K.S.A. 9-1101(a)(28), and amendments thereto, shall not be deemed to be a branch bank:

(a) For the purposes of this section, the term “branch bank” means any office, agency or other place of business located within this state, other than the place of business specified in the bank’s certificate of authority, at which deposits are received, checks paid, money lent or trust authority exercised, if approval has been granted by the ~~state bank commissioner, under~~ *pursuant to* K.S.A. 9-1602, and amendments thereto;

(b) establishment of a new branch or relocation of an existing branch for eligible banks:

(1) After first applying for and obtaining the approval of the commissioner, ~~an eligible~~ a bank incorporated under the laws of this state, may establish and operate one or more branch banks or relocate an existing branch bank, anywhere within this state;

(2) the application shall include the nature of the banking business to be conducted at the proposed branch bank, the primary geographical area to be served by ~~it~~ *the proposed branch bank*, the personnel and office facilities to be provided at the proposed branch bank and other information the commissioner may require;

(3) the application shall include the name selected for the proposed branch bank. The name selected for the proposed branch bank shall not be the name of any other bank or branch bank: (A) *Doing business in the same city or town; or*

(B) *within a 15-mile radius of the ~~same city or town~~ proposed location*, nor shall the name selected be required to contain the name of the applicant bank. If the name selected for the proposed branch bank does not contain the name of the applicant bank, the branch bank shall provide in the public lobby of such branch bank, a public notice that it is a branch bank of the applicant bank. *Any bank may request exemption from the commissioner from the provisions of this paragraph;*

(4) the application shall include proof of publication of notice that the applicant bank intends to file or has filed an application to establish a branch bank or relocate an existing branch bank. The notice shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank. The notice shall be in the form prescribed by the commissioner and at a minimum shall contain the name and address of the applicant bank, the location of the

proposed branch and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication;

(5) upon receipt of the application, and following expiration of the comment period, the commissioner may hold a hearing in the county in which the applicant bank seeks to operate the branch bank. The applicant shall publish notice of the time, date and place of such hearing in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank, not less than 10, nor more than 30, days prior to the date of the hearing, and proof of publication shall be filed with the commissioner. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the commissioner, or the commissioner's designee, in support of or in opposition to the branch bank. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner;

(6) if the commissioner determines a public hearing is not warranted, the commissioner shall approve or disapprove the application within 15 days after receipt of a complete application, but not prior to the end of the comment period. If a public hearing is held, the commissioner shall approve or disapprove the application within 60 days after consideration of the complete application and the evidence gathered during the commissioner's investigation. The period for consideration of the application may be extended if the commissioner determines the application presents a significant supervisory concern. *The new branch or relocation shall only be granted* if the commissioner finds that:

(A) There is a reasonable probability of usefulness and success of the proposed branch bank; and

(B) the applicant bank's financial history and condition is sound; ~~the new branch or relocation shall be granted, otherwise, it shall be denied;~~

(7) within 15 days after any final action of the commissioner approving or disapproving an application, the applicant, or any adversely affected or aggrieved person who provided written comments during the specified comment period, may request a hearing with the state banking board. Upon receipt of a timely request, the *state banking* board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. Any decision of the state banking board is subject to review in accordance with the Kansas judicial review act;

~~(c) establishment of a new branch or relocation of an existing branch for banks which do not meet the definition of "eligible bank":~~

~~(1) After first applying for and obtaining the approval of the state banking board, a bank incorporated under the laws of this state, which does not meet the definition of "eligible bank," may establish and operate one or more branch banks, or relocate an existing branch bank, anywhere within this state;~~

~~(2)—an application under paragraph (1) of this subsection, to establish and operate a branch bank or to relocate an existing branch bank shall be in such form and contain such information as the rules and regulations of the state bank commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, shall provide;~~

~~(3)—the application shall include estimates of the annual income and expenses of the proposed branch bank, the annual volume of business to be transacted by it, the nature of the banking business to be conducted at the proposed branch bank, the primary geographical area to be served by it and the personnel and office facilities to be provided at the proposed branch bank;~~

~~(4)—the application shall include the name selected for the proposed branch bank. The name selected for the proposed branch bank shall not be the name of any other bank or branch bank doing business within a 15 mile radius of the same city or town, nor shall the name selected be required to contain the name of the applicant bank. If the name selected for the proposed bank does not contain the name of the applicant bank, the branch bank shall provide in the public lobby of such branch bank, a public notice that it is a branch bank of the applicant bank;~~

~~(5)—the application shall include proof of publication of notice that applicant bank intends to file an application to establish a branch bank or relocate an existing branch bank. The notice shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank. The notice shall be in the form prescribed by the state banking board and at a minimum shall contain the name and address of the applicant bank, the location of the proposed branch and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication;~~

~~(6)—upon receipt of an application meeting the above requirements, and following the expiration of the comment period, within 60 days the state banking board may hold a hearing in the county in which the applicant bank seeks to establish and operate a branch bank. Notice of the time, date and place of such hearing if one is to be held shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank not less than 10 or more than 30 days prior to the date of the hearing, and proof of publication shall be filed with the commissioner. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the board in support of or in opposition to the application. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner and copies shall be furnished to the members of the state banking board not less than 10 days prior to the meeting of the board at which the application will be considered;~~

~~(7) the state banking board shall approve or disapprove the application within 90 days after consideration of the application and the evidence gathered during the board's investigation. If the board finds that:~~

~~(A) There is a reasonable probability of usefulness and success of the proposed branch bank; and~~

~~(B) the applicant bank's financial history and condition is sound, the application shall be granted; otherwise, the application shall be denied;~~

~~(8) any final action of the board approving or disapproving an application shall be subject to review in accordance with the Kansas judicial review act upon the petition of the applicant or any adversely affected or aggrieved person who provided written comments during the specified comment period. Upon the request of any bank or trust company proposing to relocate an existing branch less than one mile from the existing location, the commissioner may exempt such bank or trust company from the requirements of this section;~~

(d) any branch bank lawfully established and operating on the effective date of this act may continue to be operated by the bank then operating the branch bank and by any successor bank;

(e) ~~branch banks which have any bank location which has been established and are~~ *is* being maintained by a bank at the time of its merger into or consolidation with another bank or at the time ~~its~~ *the bank's* assets are purchased and ~~its~~ *the bank's* liabilities are assumed by another bank may continue to be operated by the surviving, resulting or purchasing and assuming bank. ~~The surviving, resulting or purchasing and assuming bank, with approval of the state bank commissioner, may establish and operate a branch bank or banks at the site or sites of the merged, constituent or liquidated bank or banks;~~

(f) any state bank or national banking association may provide and engage in banking transactions by means of remote service units wherever located, which remote service units shall not be considered to be branch banks. Any banking transaction effected by use of a remote service unit shall be deemed to be transacted at a bank and not at a remote service unit;

(g) as a condition to the operation and use of any remote service unit in this state, a state bank or national banking association, each hereinafter referred to as a bank, which desires to operate or enable its customers to utilize a remote service unit must agree that such remote service unit will be available for use by customers of any other bank or banks upon the request of such bank or banks to share its use and the agreement of such bank or banks to share all costs, including a reasonable return on capital expenditures incurred in connection with ~~its~~ *the remote service unit's* development, installation and operation. The owner of the remote service unit, whether a bank or any other person, shall make the remote service unit available for use by other banks and their customers on a nondiscriminatory basis, conditioned upon payment of a reasonable proportion

of all costs, including a reasonable return on capital expenditures incurred in connection with the development, installation and operation of the remote service unit. Notwithstanding the foregoing provisions of this subsection, a remote service unit located on the property owned or leased by the bank where the principal place of business of a bank, or an attached auxiliary teller facility or branch bank of a bank, is located need not be made available for use by any other bank or banks or customers of any other bank or banks;

(h) for purposes of this section, “remote service unit” means an electronic information processing device, including associated equipment, structures and systems, through or by means of which information relating to financial services rendered to the public is stored and transmitted; ~~whether instantaneously or otherwise~~, to a bank and which, for activation and account access, is dependent upon the use of a machine-readable instrument in the possession and control of the holder of an account with a bank *or is activated by a person upon verifiable personal identification*. The term shall include “online” computer terminals *which may be equipped with a telephone or televideo device that allows contact with bank personnel* and “offline” automated cash dispensing machines and automated teller machines, ~~but shall not include computer terminals or automated teller machines or automated cash dispensing machines using systems in which account numbers are not machine read and verified~~. Withdrawals by means of “offline” systems shall not exceed \$300 per transaction and shall be restricted to individual not corporate or commercial accounts;

(i) for purposes of this section, ~~“eligible bank” means a state bank that meets the following criteria:~~

~~(1) Received a composite rating of 1 or 2 under the uniform financial institutions rating system as a result of its most recent federal or state examination;~~

~~(2) meets the following three criteria for a well capitalized bank:~~

~~(A) Has a total risk based capital ratio of 10% or greater;~~

~~(B) has a tier one risk based capital ratio of 6% or greater, and~~

~~(C) has a leverage ratio of 5% or greater, and~~

~~(3) is not subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding or other administrative agreement with its primary federal regulator or the office of the state bank commissioner upon providing notice to the commissioner, any state bank may conduct loan production activity at locations other than the place of business specified in the bank’s certificate of authority or approved branch banks.~~

~~(1) Loan production activity shall consist of the following:~~

~~(A) Soliciting, assembling or processing of credit information and loan applications;~~

~~(B) approval of loan applications; or~~

(C) *loan closing activities, such as the execution of promissory notes and deeds of trust.*

(2) *No customer shall be allowed to take actual receipt of the loan funds;*

(j) *upon providing notice to the commissioner, any state bank may conduct deposit production activity at locations other than the place of business specified in the bank's certificate of authority or approved branch banks provided there is no acceptance of actual deposits in person or by drop box;*

(k) *upon providing notice to the commissioner, any state bank may provide any of the following at a location other than the place of business specified in the bank's certificate of authority without becoming a branch bank:*

(1) *Operate safe deposit boxes;*

(2) *sell travelers checks and saving bonds; and*

(3) *operate check cashing services so long as no actual account withdrawal occurs;*

(l) *any bank or trust company closing a branch bank, loan production office, deposit production office or other location shall provide notice to the commissioner.*

Sec. 50. K.S.A. 9-1111b is hereby amended to read as follows: 9-1111b. A bank making application to ~~the state banking board or the commissioner~~ for approval of a branch bank shall pay to the commissioner a fee, in an amount established by ~~rules and regulations adopted by the commissioner~~ pursuant to section 12, and amendments thereto, to defray the expenses of the ~~board, commissioner or other designees~~ in the examination and investigation of the application. The commissioner shall remit all amounts received under this section 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 separate special account in the state treasury for each application~~ *the bank investigation fund*. The moneys in ~~each such account~~ *the bank investigation fund* shall be used only to pay the expenses of the board, commissioner or other designees in the examination and investigation of ~~the application to which it relates~~ *such applications* and any unused balance shall be transferred to the bank commissioner fee fund.

Sec. 51. K.S.A. 9-1112 is hereby amended to read as follows: 9-1112.

(a) No bank shall buy, sell or trade tangible property as a business or invest in the stock of another bank or corporation, except as specifically authorized.

(b) *Unless prior approval of the commissioner is granted, no bank shall sell, give or purchase any instrument, contract, security or other asset or asset dividend to or from:*

- (1) Any employee or to ~~or from an employee's related interest;~~
- (2) ~~any director or to a director's related interest;~~
- (3) the bank's parent company; or
- (4) a subsidiary of the bank's parent company ~~without prior approval of the commissioner. Approval of the commissioner need not be obtained for an.~~

*This paragraph shall not apply to assignment of third-party loans and related security agreements for the payment thereof to or from a subsidiary of the bank's parent company.*

(c) No bank shall acquire or make a loan on ~~its~~ *the bank's* own shares of stock, or the stock of the bank's parent company or a subsidiary of the bank's parent company, except as ~~provided in subsection (d) or except as provided in subsection (26) of K.S.A. 9-1101, and amendments thereto~~ *otherwise specifically authorized.*

(d) ~~A bank may hold or sell any property coming into its ownership in the collection of debts. All such property except legal investments, shall be sold within one year of acquisition, provided a commercially reasonable sale can occur.~~

~~(e) If a commercially reasonable sale cannot occur within one year, the bank shall not carry such property as a book asset, except that the commissioner may authorize a bank to carry such property as a book asset for a longer period. No bank shall give any preference to any depositor either by pledging any of the bank's assets as collateral security or in any other manner, except:~~

~~(1) As provided under the provisions of K.S.A. 9-1603, and amendments thereto; and~~

~~(2) the deposit of public moneys and funds in the custody of the federal court or any of the court's officers may be secured as elsewhere provided in the state banking code or as required by the federal court.~~

Sec. 52. K.S.A. 2014 Supp. 9-1114 is hereby amended to read as follows: 9-1114. (a) The business of any bank or trust company shall be managed and controlled by ~~its~~ *such bank's or trust company's* board of directors and this shall include the authority to provide for bonus payments, in addition to ordinary compensation for any or all of its officers and employees.

(b) The board shall consist of not less than five nor more than 25 members who shall be elected by the stockholders at any regular annual meeting which shall be held on ~~such the date of each calendar year as the bank or trust company may specify in its~~ *specified in the bank's or trust company's bylaws. A majority of the directors shall be residents of this state.*

(c) ~~If the date specified in the bylaws falls on a legal holiday, the meeting shall be held, and the directors elected, on the next following business day. If for any reason the election of directors is not made on~~

~~the day fixed, or in the event of a legal holiday, on the next business day, an election may for any reason the meeting cannot be held on the date specified in the bylaws, the meeting shall be held on any a subsequent day within 60 days of the day fixed, to be designated by the board of directors, or, if the directors fail to fix the day, by the shareholders representing  $\frac{2}{3}$  of the shares.~~

~~(d) In all cases, at least 10 days' notice of the date for the annual meeting shall have been given by first-class mail to the shareholders. If the number of directors elected is less than 25, the number of directors may be increased so long as the total number does not exceed 25 and when the number is increased the first additional directors may be elected at a special meeting of the stockholders. The directors shall be elected in the manner provided in the general corporation code. Vacancies in the board of directors may be filled in the manner provided in the general corporation code. A majority of the directors shall be residents of this state.~~

*(e) Any newly created directorship must be approved and elected by the shareholders in the manner provided in the general corporation code. A special meeting of the shareholders may be convened at any time for such purpose.*

*(f) Any vacancy in the board of directors may be filled by the board of directors in the manner provided in the general corporation code.*

*(g) Any director of any bank or trust company who shall become indebted to such bank or trust company on any judgment or whose indebtedness is charged off or forgiven shall forfeit such person's position as director and such vacancy shall be filled as provided by law.*

*(h) Within 15 days after the annual meeting the president or cashier of every bank and every trust company shall submit to the commissioner a certified list of stockholders and the number of shares owned by each. This list of stockholders shall be kept and maintained in the bank's or trust company's main office and shall be subject to inspection by all stockholders during the business hours of the bank or trust company. The commissioner may require the list to be filed using an electronic means.*

*(i) Each director shall take and subscribe an oath to administer the affairs of such bank or trust company diligently and honestly and to not knowingly or willfully permit any of the laws relating to banks or trust companies to be violated. A copy of each oath shall be filed with the commissioner within 15 days of the election of any officer or director. The commissioner may require the oath to be filed using an electronic means.*

*(j) Every bank and trust company shall notify the commissioner of any change in the chief executive officer, president or directors, including in such bank's or trust company's report a statement of the past and current business and professional affiliations of the new chief executive officer, president or directors.*

Sec. 53. K.S.A. 9-1116 is hereby amended to read as follows: 9-1116. (a) The board of directors shall hold at least four regular meetings each year, at least one of which shall be held during each calendar quarter. *Minutes shall be made of each directors' meeting of a bank or trust company and shall show any action taken by the directors.*

(b) *In addition to other actions the board may take, the board shall take the following actions and note the same in the minutes:*

- (1) *Election of all officers, showing their titles and salaries;*
- (2) *approval of all regular employee compensation;*
- (3) *prior approval of all bonuses to elected officers and employees, if provided;*
- (4) *approval of all loans, including overdrafts. The board may establish a committee with authority to approve loans. The board shall approve a report from the committee summarizing all loans made since the board's last meeting;*
- (5) *review and approval of the directors' examination or audit required under K.S.A. 9-1116, and amendments thereto;*
- (6) *annual approval of all bank policies;*
- (7) *review of all state and federal regulatory examination reports received since the board's last meeting;*
- (8) *annual approval of fidelity bond and bank casualty insurance;*
- (9) *approval of bank income and expenses and securities transactions;*
- (10) *review and ratification of any committee reports; and*
- (11) *approval of dividends and a review that the dividends are in compliance with K.S.A. 9-910, and amendments thereto.*

(c) *In addition, the board of directors or an auditor selected by the board shall make a thorough examination of the books, records, funds and securities held by the bank or trust company at each of the quarterly meetings and the result of such examination shall be recorded in detail. If the board selects an auditor, the auditor's findings shall be reported directly to the board. In lieu of the required four quarterly examinations, the board of directors may accept one annual audit by a certified public accountant or an independent auditor approved by the commissioner.*

Sec. 54. K.S.A. 9-1119 is hereby amended to read as follows: 9-1119. No officer or employee of any bank shall certify any check, draft, or order drawn upon ~~such the~~ bank unless the maker or drawer of ~~such the~~ instrument has moneys or funds equal to the amount of ~~such the~~ check, draft or order on deposit with such bank at the time ~~such the~~ check, draft or order is certified, ~~but~~. Any check, draft or order so certified by any duly authorized officer or employee of any bank shall be shown immediately upon the books of the bank.

Sec. 55. K.S.A. 9-1122 is hereby amended to read as follows: 9-1122.

(a) ~~Any~~ *As used in this section:*

- (1) *"Officers" means the person or persons designated by the board*

*of directors of a bank or trust company to act for the bank or trust company in carrying out the provisions of this act or, in the absence of any such designation or of the officer or officers so designated, the president or any other officer currently in charge of the bank or trust company;*

(2) *“office” means any place at which a bank transacts business;*

(3) *“emergency” means any condition or occurrence which may interfere physically with the conduct of normal business operations at the offices of a bank or trust company or which poses an imminent or existing threat to the safety or security of persons or property, or both. An emergency may arise as a result of and any one or more of the following, but is not limited to, fire, flood, earthquake, hurricane, tornado, wind, rain or snow storm, labor strike by bank or trust company employees, power failure, transportation failure, interruption of communications facilities, shortage of fuel, housing, food, transportation or labor, robbery or attempted robbery, actual or threatened enemy attack, epidemic or other catastrophe, riot, civil commotion and other acts of lawlessness or violence, actual or threatened.*

(b) *A bank or trust company may remain closed on any one business day of every week or may make a permanent change in ~~bank the bank's~~ or trust company's hours of business, upon the adoption by its board of directors of a resolution authorizing the same to be done, and the posting of. The bank or trust company shall post the resolution in a conspicuous place ~~within~~ at the main office and all branch locations of the bank or trust company ~~premises~~ at least 15 days in advance of any such closing or change in business hours. Thereafter, the bank or trust company may remain closed on the business day of every week designated in the resolution, or may operate under the changed bank hours designated in the resolution, and the resolution and the posting thereof shall control until the same be repealed or amended by subsequent resolution which shall require the same procedure in order to be effective. If the business day designated in any resolution regarding closing is a legal public holiday, the bank or trust company may close on the business day preceding or following the legal public holiday.*

~~Should a legal public holiday fall on Sunday, any bank or trust company may close on the next preceding or following business day.~~

(b)(c) *The officers of a bank or trust company may close the bank's or trust company's offices on any day or days designated by proclamation of the president of the United States or the governor or legislature of this state, as a day or days of mourning, rejoicing or other special observance and on such other day or days of local or special observance as in the reasonable and proper exercise of their discretion the officers feel the bank or trust company should observe. If the bank or trust company is closed pursuant to this subsection, the bank or trust company shall give reasonable notice of the closing by posting a notice in a conspicuous place at the main office and all branch locations of the bank or trust company and*

*through any other means the bank or trust company deems appropriate, including publication in a newspaper of general circulation in the community, if time allows.*

(d) *Whenever the officers of a bank or trust company are of the opinion that an emergency exists, or is impending, which affects, or may affect, a bank's or trust company's offices, the officers shall have the authority, in the reasonable and proper exercise of the officers' discretion, to determine not to open such offices on any business or banking day or, if having opened, to close such offices during the continuation of such emergency. The officers shall notify the commissioner of the emergency, the closing, the duration and the subsequent reopening within 48 hours of any such event, if practical. In no case shall such offices remain closed for more than 48 consecutive hours, excluding other legal holidays, without requesting and obtaining the approval of the commissioner.*

(e) Every day on which any bank or trust company shall remain closed pursuant to this ~~act~~ section shall be deemed a holiday for all of the purposes of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, and with respect to any ~~banking~~ bank or trust company business of any character. No bank or trust company shall be required to permit access to ~~its~~ the bank's or trust company's safe, deposit vault or vaults on any such day. Where ~~the terms of~~ a contract ~~by its terms~~ requires the payment of money or the performance of a condition on any such day by, through, with or at any bank or trust company, then the payment may be made or condition performed on the next business day with the same force and effect as if made or performed in accordance with the terms of the contract. No liability or loss of rights of any kind shall result from the delay.

~~(e)~~ (f) The posting of the notice provided for in this section shall be notice to everyone of the closing or change in hours of the bank or trust company, and thereafter no liability shall be incurred by the bank or trust company by reason of closing or changing the bank hours pursuant to this ~~act~~ section.

(g) *The provisions of this section shall be construed and applied as being in addition to, and not in substitution for, or limitation of, any other law of this state or of the United States, authorizing the closing of a bank or trust company or excusing the delay by a bank or trust company in the performance of the bank's or trust company's duties and obligations because of emergencies or conditions beyond the bank's or trust company's control or otherwise.*

Sec. 56. K.S.A. 9-1123 is hereby amended to read as follows: 9-1123. For the purposes of ~~this act~~ K.S.A. 9-1124 through 9-1127c, and amendments thereto:

(a) The term "bank service ~~corporation~~ company" means a corporation or limited liability company organized to perform services authorized

by this act, all of the capital stock of which is owned by one or more state or national banks at least one of which is a state bank subject to examination by the bank commissioner.

(b) The term “invest” includes any advance of funds to a bank service ~~corporation~~ *company*, whether by the purchase of stock, the making of a loan or otherwise, except a payment for rent earned, goods sold and delivered or services rendered prior to the making of such payment.

(c) The term “depository institution” means a state or national bank, savings and loan association, savings bank or credit union.

Sec. 57. K.S.A. 9-1124 is hereby amended to read as follows: 9-1124. No limitation or prohibition otherwise imposed by any provision of state law exclusively relating to banks shall prevent any state bank or banks from investing not more than 10% of the paid-in and unimpaired capital and unimpaired surplus in a bank service ~~corporation~~ *company*. No bank shall invest more than 5% of its total assets in bank service ~~corporations~~ *companies*.

Sec. 58. K.S.A. 9-1125 is hereby amended to read as follows: 9-1125. No bank service ~~corporation~~ *company* shall unreasonably discriminate in the provision of any services authorized under ~~this act~~ K.S.A. 9-1124 through 9-1127c, and amendments thereto, to any depository institution that does not own stock in the service ~~corporation~~ *company* on the basis of the fact that the nonstockholding institution is in competition with an institution that owns stock in the bank service ~~corporation~~ *company*, except:

(a) It shall not be considered unreasonable discrimination for a bank service ~~corporation~~ *company* to provide services to a nonstockholding institution only at a price that fully reflects all of the costs of offering those services, including the cost of capital and a reasonable return thereon; and

(b) a bank service ~~corporation~~ *company* may refuse to provide services to a nonstockholding institution if comparable services are available from another source at competitive overall costs or if the providing of services would be beyond the practical capacity of the service ~~corporation~~ *company*. In any action or proceeding to enforce the duty imposed by this section, or for damages for the breach thereof, the burden shall be upon the bank service ~~corporation~~ *company* to show such availability or practical capacity.

Sec. 59. K.S.A. 9-1127a is hereby amended to read as follows: 9-1127a. Without regard to the provisions of K.S.A. 9-1127b and 9-1127c, and amendments thereto, a state bank may invest in a bank service ~~corporation~~ *company* that performs, and a bank service ~~corporation~~ *company* may perform, the following services only for depository institutions:

(a) Check and deposit sorting and posting, computation and posting of interest and other credits and charges;

(b) preparation and mailing of checks, statements, notices and similar items; or

(c) any other clerical, bookkeeping, accounting, statistical or similar functions performed for a depository institution.

Sec. 60. K.S.A. 9-1127b is hereby amended to read as follows: 9-1127b. (a) A bank service ~~corporation~~ *company* may provide to any person any service authorized by this section, except that a bank service ~~corporation~~ *company* shall not take deposits.

(b) Except with the prior approval of the ~~state bank~~ commissioner, a bank service ~~corporation~~ *company* shall not perform the services authorized by this section in any state other than this state and all shareholders of a bank service ~~corporation~~ *company* shall be located in this state.

(c) A bank service ~~corporation~~ *company* in which a state bank is a shareholder shall perform only those services that such state bank shareholder is authorized to perform under the law of this state and shall perform such services only at locations in this state in which such bank shareholder could be authorized to perform such services.

(d) A bank service ~~corporation~~ *company* in which a national bank is a shareholder shall perform only those services that such national bank shareholder is authorized to perform under federal law and shall perform such services only at locations in this state at which such national bank shareholder could be authorized to perform such services.

(e) A bank service ~~corporation~~ *company* that has both national bank and state bank shareholders shall perform only those services that may lawfully be performed by both ~~its~~ *the bank service company's* national bank shareholder or shareholders under federal law and ~~its~~ *the bank service company's* state bank shareholder or shareholders under the law of this state and shall perform such services only at locations in this state at which both ~~its~~ *the bank service company's* state bank and national bank shareholders could be authorized to perform such services.

(f) Notwithstanding the other provisions of this section or any other provision of law, other than the provisions of federal branching law and the branching law of this state regulating the geographic location of banks to the extent that those laws are applicable to an activity authorized by this subsection, a bank service ~~corporation~~ *company* may perform at any geographic location any service, other than deposit taking, that the board of governors of the federal reserve system has determined, by regulation, to be permissible for a bank holding company under section 4(c)(8) of the federal bank holding company act.

Sec. 61. K.S.A. 9-1127c is hereby amended to read as follows: 9-1127c. (a) No state bank shall invest in the capital stock of a bank service ~~corporation~~ *company* that performs any service under ~~the authority of subsections (c), (d) or (e) of K.S.A. 9-1127b(c), (d) or (e),~~ and amendments thereto, without the prior approval of the ~~state bank~~ commissioner.

(b) No state bank shall invest in the capital stock of a bank service ~~corporation~~ *company* that performs any service under authority of ~~sub-section (f) of K.S.A. 9-1127b(f)~~, and amendments thereto, and no bank service ~~corporation~~ *company* shall perform any activity under ~~subsection (f) and K.S.A. 9-1127b(f)~~, and amendments thereto, without the prior approval of the ~~state bank~~ commissioner.

(c) In determining whether to approve or deny any application for prior approval under ~~this section K.S.A. 9-1124 through 9-1127c, and amendments thereto~~, the ~~state bank~~ commissioner is authorized to consider the financial and managerial resources and future prospects of the bank or banks and bank service ~~corporation~~ *company* involved, including the financial capability of the bank to make a proposed investment under this act, and possible adverse affects such as undue concentration of resources, unfair or decreased competition, conflicts of interest or unsafe or unsound banking practices.

(d) In the event the ~~state bank~~ commissioner fails to act on any application under this section within 90 days of the submission of a complete application to them, the application shall be deemed approved.

Sec. 62. K.S.A. 9-1130 is hereby amended to read as follows: 9-1130.

(a) Every bank and trust company shall retain ~~its such bank's and trust company's~~ business records for such periods as are or may be prescribed by or in accordance with the provisions of this section.

(b) Each bank and trust company shall retain permanently ~~the minute books of meetings of its such bank's or trust company's:~~

- (1) *Minute books of its* stockholders and directors; ~~its;~~
- (2) capital stock ledger and capital stock certificate ledger or stubs; ~~its;~~
- (3) general ledger or the record kept in lieu thereof; ~~its;~~
- (4) daily statements of condition; and
- (5) all records which the ~~state bank~~ commissioner shall, in accordance with the provisions of this section, require to be retained permanently.

(c) All other records of a bank or trust company shall be retained for such periods as the commissioner shall, in accordance with the provisions of this section, prescribe.

(d) The commissioner shall, in accordance with the provisions of K.S.A. 9-1713, and amendments thereto, adopt and promulgate rules and regulations classifying all records kept by banks and trust companies, prescribing the period for which records of each class shall be retained, and requiring to be kept such record of destruction of records as the commissioner deems advisable. Such periods may be permanent or for a term of years. Prior to the adoption, amendment or revocation of such rules and regulations the commissioner shall consider:

- (1) Actions and administrative proceedings in which the production of bank or trust company records might be necessary or desirable;

(2) state and federal statutes of limitation applicable to such actions or proceedings;

(3) the availability of information contained in bank and trust company records from other sources; and

(4) such other matters as the commissioner shall deem pertinent to the interest of customers and shareholders of banks and trust companies and of the people of this state having such records available.

(e) Any bank or trust company may destroy any record which has been retained for the period prescribed, in accordance with the terms of this section for retention of records of ~~its~~ *such bank's or trust company's* class, and shall, after ~~it has destroyed a~~ *destroying such* record, thereafter be under no duty to produce such record.

(f) In lieu of retention of the original records *with the exception of the document or documents creating the fiduciary relationship*, any bank or trust company may cause any, or all, of ~~its~~ *such bank's or trust company's* records, and records at any time in ~~its~~ *the* custody of *such bank or trust company*, including those held by it as a fiduciary, to be photographed or otherwise reproduced to permanent form. Any such photograph or reproduction shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

(g) Any bank or trust company may cause any, or all, transactions, information and data occurring in the regular course of ~~its~~ *such bank's or trust company's* operations to be recorded and maintained by electronic means. When the electronic records of such transactions, information and data are converted to writing, such writings shall constitute the original records of such transactions, information and data and shall have the force and effect thereof.

(h) To the extent that they are not in contravention of any statute of the United States or regulations promulgated thereunder, the provisions of this section shall apply to all banks and trust companies doing business in this state.

(i) Nothing in this section shall be construed to affect any duty of a bank or trust company to preserve the confidentiality of their records.

Sec. 63. K.S.A. 9-1132 is hereby amended to read as follows: 9-1132. Except for persons who are executive officers, an officer or director of a bank or national banking association shall have no personal liability to the bank, association or ~~its~~ *the bank's or association's* stockholders for monetary damages for breach of duty as an officer or director, except that such liability shall not be eliminated for:

(a) Any breach of the officer's or director's duty of loyalty to the bank, association or ~~its~~ *the bank's or association's* stockholders;

(b) acts or omissions which constitute willful or gross and wanton negligent breach of the officer's or director's duty of care;

(c) acts in violation of K.S.A. 9-910, 9-911 or 9-912, and amendments thereto; or

(d) any transaction from which the officer or director derived an improper personal benefit. ~~For purposes of this section, “executive officer” means the chairperson of the board, the president, each vice president, the cashier, the secretary and the treasurer of a bank or national banking association, unless such officer is excluded by resolution of the board of directors or by the bylaws of the bank or national banking association from participation in the policymaking functions of the bank or national banking association, and the officer does not actually participate in the policymaking functions of the bank or national banking association.~~

Sec. 64. K.S.A. 9-1133 is hereby amended to read as follows: 9-1133. The provisions of K.S.A. ~~9-1132~~ and 17-2268 and 17-5831, and amendments thereto, apply to an action brought against a director or officer of an insured depository institution, regardless of whether the action was filed before, on, or after May 20, 1993, unless the action was finally adjudicated before May 20, 1993. The provisions of this section shall not apply to executive officers as defined in K.S.A. ~~9-1132~~ 9-701 and 17-2268 and 17-5831, and amendments thereto.

Sec. 65. K.S.A. 9-1137 is hereby amended to read as follows: 9-1137. (a) For the purposes of this section:

(1) “Bank” means a state chartered or federally chartered bank, trust company or bank holding company as defined in K.S.A. 9-519, and amendments thereto, located in this state;

(2) “compliance review committee” means:

(A) An audit, loan review or compliance committee appointed by the board of directors of a bank *whose functions are to evaluate and seek to improve loan underwriting standards, asset quality, financial reporting to federal or state regulatory agencies or compliance with federal or state statutory or regulatory requirements*; or

(B) any other person to the extent the person acts in an investigatory capacity at the direction of a compliance review committee;

(3) “compliance review documents” means documents prepared for or created by a compliance review committee;

(4) “loan review committee” means a person or group of persons who, on behalf of a bank, reviews loans held by the institution for the purpose of assessing the credit quality of the loans, compliance with the institution’s loan policies and compliance with applicable laws and regulations; or

(5) “person” means an individual, group of individuals, board, committee, partnership, firm, association, corporation or other entity.

(b) ~~This section applies to a compliance review committee whose functions are to evaluate and seek to improve loan underwriting standards, asset quality, financial reporting to federal or state regulatory agen-~~

~~cies or compliance with federal or state statutory or regulatory requirements.~~

~~(e)~~—Except as provided in subsection ~~(d)~~ (c):

(1) Compliance review documents are confidential and are not discoverable or admissible in evidence in any civil action arising out of matters evaluated by the compliance review committee; and

(2) compliance review documents delivered to a federal or state governmental agency remain confidential and are not discoverable or admissible in evidence in any civil action arising out of matters evaluated by the compliance review committee.

~~(d)~~(c) Subsection ~~(e)~~(b) does not apply to any information required by statute or rules and regulations to be maintained by or provided to a governmental agency while the information is in the possession of the governmental agency to the extent applicable law expressly authorizes its disclosure.

~~(e)~~(d) This section may not be construed to limit the discovery or admissibility in any civil action of any documents that are not compliance review documents.

Sec. 66. K.S.A. 9-1138 is hereby amended to read as follows: 9-1138. (a) As used in this section:

(1) “Accredited school” means any school operated by a public school district organized under the laws of this state and any nonpublic school accredited by the state board of education.

(2) “Board” means the board of education of a school district and the governing authority of an accredited nonpublic school.

(b) In order to encourage savings among school children, a bank may enter into a written agreement with a board of an accredited *elementary or secondary* school to establish a school savings deposit program. Such program shall be limited to the opening of accounts and the periodic collection, by bank employees or school personnel, of deposits from school children for deposit in such bank accounts.

(c) No such program shall be implemented until the executed agreement and any information deemed necessary has been submitted to the ~~Kansas state bank~~ commissioner. If the commissioner determines the agreement and proposed program primarily promote educational objectives and the purpose of this section, the commissioner shall provide the bank with written approval to implement the program.

(d) Any bank participating in such school savings deposit program shall have ~~its~~ *the bank's* main or branch office located in the same county as the participating school, or if no bank in the county wants to participate in such program, then banks in any contiguous county may participate. ~~The school savings deposit program may be conducted in any elementary or secondary school.~~

Sec. 67. K.S.A. 2014 Supp. 9-1140 is hereby amended to read as

follows: 9-1140. ~~As used in K.S.A. 2014 Supp. 9-1139 and 9-1140, and amendments thereto:~~ (a) *No bank shall establish or maintain a branch in this state on the premises or property of an affiliate if the affiliate engages in commercial activities.*

(b) *As used in this section:*

(1) “Affiliate” means any company that controls, is controlled by, or is under common control with another company.

~~(b)~~(2) “Bank” shall have the meaning stated in ~~the federal deposit insurance act~~, 12 U.S.C. § 1813(a)(1).

~~(c)~~(3) “Branch” means any office, other than the place of business specified in the bank’s certificate of authority, at which deposits are received, checks paid, money lent or trust authority exercised, if approval has been granted by the appropriate federal or state supervisory agency.

~~(d)~~(4) “Commercial activities” means activities in which a bank holding company, a financial holding company, a national bank, or a national bank financial subsidiary may not engage under federal or state law.

~~(e)~~(5) “Control” means the power directly or indirectly to direct the management or policies of a bank or to vote 25% or more of any class of voting shares of a bank.

Sec. 68. K.S.A. 9-1201 is hereby amended to read as follows: 9-1201. All of the provisions contained within ~~K.S.A. 9-1204, 9-1205, 9-1206, 9-1207, 9-1213 and 9-1214~~ *article 12 of chapter 9 of the Kansas Statutes Annotated*, and amendments thereto, shall extend and apply to ~~national banks organized under federal laws and state organized banks~~ *any national or state chartered bank that has a main office or branch in this state.*

Sec. 69. K.S.A. 9-1204 is hereby amended to read as follows: 9-1204. Any bank may receive deposits from minors or in the name of minors and pay the same upon the order of such minors whether or not ~~said such~~ minors are emancipated ~~until receiving certified copy of the appointment of a guardian~~. Payments so made shall discharge the bank ~~forever~~ from any further liability on ~~the account of such deposits or the money so paid by the bank~~.

Sec. 70. K.S.A. 9-1205 is hereby amended to read as follows: 9-1205. Deposits may be made in the names of two or more persons, including minors, ~~payable to either or any of them, or payable to either or any of the survivors or the sole survivors, and such deposits or any part thereof or any interest thereon, may be paid to or on order of any of said persons whether the other or others be living or not, and the receipt, order, or acquittance of the person so paid and funds on deposit may be paid to any or all of the joint owners under the terms of the deposit contract. Payment to a joint owner in accordance with the terms of the deposit contract shall be valid and sufficient release and discharge to the bank for any payment so made.~~

Sec. 71. K.S.A. 9-1207 is hereby amended to read as follows: 9-1207. ~~Notice to any bank of~~ An adverse claim to a bank deposit with such bank does not need to be recognized, and shall not be deemed effective to be paid out by the bank, unless and until either the:

(a) Person making the claim supplies indemnity deemed adequate by the bank; or ~~the~~ (b) bank is served with process or order issued by a court of competent jurisdiction in an action in which the adverse claimant and the person or persons nominally entitled to the deposit are parties.

Sec. 72. K.S.A. 9-1213 is hereby amended to read as follows: 9-1213. ~~If any bank shall be presented in the usual course of business with a draft drawn on it by any bank in the state of Kansas, after said drawer bank has failed or been closed for business by law or by other proper legal action, which said draft was issued prior to the failure or closing of said bank and has on deposit to the credit of said failed or closed bank sufficient funds with which to pay said draft, said bank shall, upon receiving proof that said draft represents payment of cash letters covering checks which had been charged to the individual accounts of the said failed or closed bank prior to the failure or closing of said bank, honor and pay said draft regardless of its having received notice, constructive or otherwise, of the failure or closing of such bank. When any drawee bank shall be presented with a draft drawn on it in the usual course of business by a drawer bank that has failed or been closed by operation of law or legal action, the drawee bank shall accept and pay such draft regardless of having received notice, constructive or otherwise, of the failure or closing of the drawer bank if the:~~

- (a) Draft was issued prior to the failure or closing of the drawer bank;
- (b) drawee bank has, on deposit to the credit of the failed or closed drawer bank, sufficient funds to pay the draft; and
- (c) drawee bank has received proof that the draft represents payment of cash letters covering checks that had been charged to the individual accounts of the failed or closed drawer bank prior to the failure or closing of the drawer bank.

Sec. 73. K.S.A. 9-1214 is hereby amended to read as follows: 9-1214. Any drawee bank paying a draft under the circumstances set out in K.S.A. 9-1213, and amendments thereto, shall be released from any further liability thereon, and shall be fully protected and held harmless from any claim made by the receiver or other liquidating agent of ~~said the~~ failed or closed drawer bank for sums representing payments made on ~~said the~~ draft.

Sec. 74. K.S.A. 2014 Supp. 9-1215 is hereby amended to read as follows: 9-1215. (a) Subject to the provisions of this section ~~and K.S.A. 9-1216, and amendments thereto,~~ an individual adult or minor, hereafter referred to as the owner, of an account may enter into a written contract with any bank located in this state ~~providing that the balance of the~~

~~owner's deposit account, or that provides that at the time of the owner's death, the balance of the owner's legal share of a deposit the account, at the time of death of the owner shall be made payable on the death of the owner shall be paid to one or more persons or, if the persons predecease the owner, to another person or persons, hereafter referred to as the beneficiary or beneficiaries. If a beneficiary has predeceased the owner, that beneficiary's share shall be divided equally among the remaining beneficiaries unless the contract provides otherwise.~~

(b) ~~If any beneficiary is a minor at the time the account, or any portion of the account, becomes funds become payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.~~

~~Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated.~~

~~Every contract authorized by this section shall be considered to contain a right on the part of the owner during the owner's lifetime both to pursuant to this section, the bank shall pay out in accordance with K.S.A. 59-3053, and amendments thereto.~~

(c) ~~During the owner's lifetime, the owner has the right to both withdraw funds on deposit in the account in the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the designation of beneficiary. The interest of the beneficiary shall be considered not to vest until the death of the owner and, if there is a claim pursuant to subsection (g) of K.S.A. 39-709, and amendments thereto, until such claim is satisfied. No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the bank and delivered to the bank prior to the death of the owner.~~

(d) ~~The interest of the beneficiary shall not vest until the death of the owner. Vesting of the beneficiary's interest is subject to the following if, prior to the owner's death or payment to the beneficiary, the bank has received written notice:~~

(1) ~~From the department for children and families of a claim pursuant to K.S.A. 39-709, and amendments thereto, the balance of the owner's share shall be paid to the department for children and families to the extent of medical assistance expended on the deceased owner, with the beneficiary then receiving the balance of the owner's share, if any remains; or~~

(2) ~~of the owner's surviving spouse's intent to claim an elective share under K.S.A. 59-6a214, and amendments thereto, the balance of the owner's share shall be paid to the court having jurisdiction as provided in K.S.A. 59-6a214, and amendments thereto, to the extent of the owner's~~

*surviving spouse's elective share, with the beneficiary then receiving the balance of the owner's share, if any remains.*

*(e) Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.*

*(f) Payment by the bank of the owner's deposit account pursuant to the provisions of this section shall release and discharge the bank from further liability for the payment.*

*(g) For the purposes of this section:*

*(1) The balance of the owner's deposit account or the balance of the owner's legal share of a deposit account shall not be construed to not include any portion of the account which under the law of joint tenancy is the property of another joint tenant of the account upon the death of the owner. As used in this section, "person" means any individual, individual or corporate fiduciary or nonprofit religious or charitable organization as defined by K.S.A. 79-4701, and amendments thereto; and*

*(2) where multiple owners exist, such owners will be presumed to own equal shares of the deposit account unless the deposit contract with the bank specifies a different percentage of ownership for the owners.*

Sec. 75. K.S.A. 9-1301 is hereby amended to read as follows: 9-1301. Every bank operating under the provisions of ~~this act~~ *the state banking code* and authorized to receive deposits of money shall insure the deposits of each depositor with the federal deposit insurance corporation, or its successor, ~~or with an insurer approved by the state commissioner of insurance in an amount not less than that provided by the federal deposit insurance corporation and shall pay all charges or assessments levied by such deposit insurance corporation, or its successor or such other insurer.~~ Every state bank that accepts deposits of money which does not insure with the federal deposit insurance corporation shall furnish a blanket fidelity bond on all of its officers and employees in a principal amount of not less than 100% of the average total amount of all deposits in the bank, that average total deposits shall mean the average of the total amounts on deposit in such bank on June 30 and December 31 next preceding. The bond shall be executed by a corporate surety authorized to do business in the state and shall be held by the state bank commissioner for the benefit of the depositors of the bank, and if a receiver is appointed, the commissioner shall collect any moneys due under such bond for the benefit of the depositors. The bond shall provide that it cannot be canceled until at least 30 days after notice has been given to the state bank commissioner unless the commissioner shall authorize its cancellation at an earlier date. The premium on such bond shall be paid by the bank.

Any bank furnishing the bond shall also cause a certified audit of its books and accounts to be made once in each calendar year by an independent certified public accountant licensed to do business in the state

~~or an independent auditor approved by the commissioner, and the accountant or auditor shall audit and verify every account of the bank. The cost of any such audit shall be paid by the bank, and a copy of the report of such audit shall be filed with the state bank commissioner. Upon receipt of the report, the bank commissioner shall examine the report and shall transmit the report, with any recommendations as to action thereon, to the state banking board and the state banking board shall, without delay, take such necessary action as may be indicated by the audit report and the recommendations of the commissioner.~~

~~Whenever a bank shall fail to comply with the provisions of this section, the commissioner shall notify the bank that a continuation of such failure will result in the revocation of its authority to do business. If after receipt of such notice the bank fails or refuses to comply, the commissioner shall after a hearing or an opportunity for a hearing has been given to such bank, revoke its authority to transact business in this state. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. The bank commissioner may grant a reasonable extension of time for compliance with this section under such rules and regulations as the state banking board may adopt. During the period of any such extension of time, the bank receiving the same shall give notice to persons making deposits, and include in all advertisements made for the purpose of securing deposits, a statement that the deposits of such bank are uninsured. The commissioner shall give written notice of such revocation to the president, cashier, or other managing officer of such bank, and by publishing a copy of the order of revocation in the Kansas register. The attorney general shall, at the request of the commissioner, then begin action for the appointment of a receiver for such bank and to dissolve same; and the receiver appointed shall take charge of such bank and liquidate the affairs and business in the same manner as provided in article 19 of chapter 9 of the Kansas Statutes Annotated, and any amendments thereto. State banks may purchase surety bond coverage for the purpose of insuring deposits in excess of the federal deposit insurance corporation's coverage limit.~~

Sec. 76. K.S.A. 9-1304 is hereby amended to read as follows: 9-1304. (a) *Upon the approval of the commissioner*~~or, the receiver or liquidator;~~ or the board of directors of any bank which may be closed because of its inability to meet the demands of its depositors may borrow from the federal deposit insurance corporation or its successor, and pledge any part or all of its assets as security,~~whether such bank is insolvent or not, except that all such loans first must have the approval of the commissioner.~~

(b) The assets, or any portion thereof, of any bank which may close because of its inability to meet the demands of its depositors may be sold to the federal deposit insurance corporation or its successor upon such terms and conditions as the commissioner shall approve.~~If the insurance~~

~~corporation is acting as receiver or liquidator for such bank, then the approval of the district court of the county wherein the bank is located first must be obtained for any such sale. Nothing contained in this section shall limit the power of any bank, the commissioner or receiver or liquidator thereof to pledge or sell any assets in accordance with other provisions of this act the state banking code and existing laws.~~

Sec. 77. K.S.A. 2014 Supp. 9-1401 is hereby amended to read as follows: 9-1401. (a) The governing body of any municipal corporation or quasi-municipal corporation shall designate by official action recorded upon its minutes the banks, savings and loan associations and savings banks which shall serve as depositories of its funds and the officer and official having the custody of such funds shall not deposit such funds other than at such designated banks, savings and loan associations and savings banks. The 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 municipal corporation or quasi-municipal corporation is located shall be designated as such official depositories if the municipal or quasi-municipal corporation can obtain satisfactory security therefor.

(b) Every officer or person depositing public funds shall deposit all such public funds coming into such officer or person's possession in their name and official title as such officer. If the governing body of the municipal corporation or quasi-municipal corporation fails to designate an official depository or depositories, the officer thereof having custody of its funds shall deposit such funds with one or more 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 municipal corporation or quasi-municipal corporation is located if satisfactory security can be obtained therefor and if not then elsewhere, but upon so doing shall serve notice in writing on the governing body showing the names and locations of such banks, savings and loan associations and savings banks where such funds are deposited, and upon so doing the officer having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by such officer.

(c) If eligible banks, savings and loan associations or savings banks under subsections (a) or (b) cannot or will not provide an acceptable bid, which shall include services, for the depositing of public funds under this section, then banks, savings and loan associations or savings banks which have main or branch offices in an adjoining county to the county in which all or part of such municipal or quasi-municipal corporation is located may receive deposits of such municipal corporation or quasi-municipal corporation, if such banks, savings and loan associations or savings banks have been designated as official depositories under subsection (a) and the

municipal corporation or quasi-municipal corporation can obtain satisfactory security therefor.

(d) *The depository bank, savings and loan association or savings bank and any agent, trustee, wholly owned subsidiary or affiliate having identical ownership granting a security interest shall enter into a written agreement with the municipal corporation or quasi-municipal corporation which so designates the bank as a depository for the municipal corporation or quasi-municipal corporation's public moneys.*

(1) *The agreement shall secure the public moneys of the municipal corporation or quasi-municipal corporation by granting a security interest in securities held by the depository bank, savings and loan association or savings bank and any agent, trustee, wholly owned subsidiary or affiliate having identical ownership pursuant to K.S.A. 9-1402, and amendments thereto.*

(2) *The depository bank, savings and loan association or savings bank and any agent, trustee, wholly owned subsidiary or affiliate having identical ownership shall perfect the security interest causing control to be given to the municipal corporation or quasi-municipal corporation in accordance with the Kansas uniform commercial code.*

(3) *The security agreement shall be in writing, executed by all parties thereto, maintained as part of their official records, except for the municipal corporations or quasi-municipal corporations, approved by their boards of directors or their loan committees, which approvals shall be reflected in the minutes of the boards or committees.*

Sec. 78. K.S.A. 2014 Supp. 9-1402 is hereby amended to read as follows: 9-1402. (a) Before any deposit of public moneys or funds shall be made by any municipal corporation or quasi-municipal corporation of the state of Kansas with any bank, savings and loan association or savings bank, such municipal or quasi-municipal corporation shall obtain security for such deposit in one of the following manners prescribed by this section.

(b) ~~Such bank, savings and loan association or savings bank may give to the municipal corporation or quasi-municipal corporation a personal bond in double the amount which may be on deposit at any given time.~~

(e) ~~Such bank, savings and loan association or savings bank may give a corporate surety bond of some surety corporation authorized to do business in this state, which bond shall be in an amount equal to the public moneys or funds on deposit at any given time less the amount of such public moneys or funds which is insured by the federal deposit insurance corporation or its successor and such bond shall be conditioned that such deposit shall be paid promptly on the order of the municipal corporation or quasi-municipal corporation making such deposits.~~

~~(d)~~(c) ~~Such bank, savings and loan association or savings bank may deposit, maintain, pledge, assign, and grant a security interest in, or cause~~

its agent, trustee, wholly owned subsidiary or affiliate having identical ownership to deposit, maintain, pledge, assign, and grant a security interest in, for the benefit of the governing body of the municipal corporation or quasi-municipal corporation in the manner provided in this ~~act~~ *section*, securities, security entitlements, financial assets and securities accounts owned by the depository institution directly or indirectly through its agent or trustee holding securities on its behalf, or owned by the depository institutions wholly owned subsidiary or by such affiliate, the market value of which is equal to 100% of the total deposits at any given time, and such securities, security entitlements, financial assets and securities accounts, may be accepted or rejected by the governing body of the municipal corporation or quasi-municipal corporation and shall consist of the following and security entitlements thereto:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations, including, but not limited to, letters of credit, and securities of United States sponsored corporations which under federal law may be accepted as security for public funds;

(2) bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America;

(3) bonds of the state of Kansas;

(4) general obligation bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas;

(5) revenue bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas if approved by the ~~state bank~~ commissioner in the case of banks and by the savings and loan commissioner in the case of savings and loan associations or federally chartered savings banks;

(6) temporary notes of any municipal corporation or quasi-municipal corporation of the state of Kansas which are general obligations of the municipal or quasi-municipal corporation issuing the same;

(7) warrants of any municipal corporation or quasi-municipal corporation of the state of Kansas the issuance of which is authorized by the state board of tax appeals and which are payable from the proceeds of a mandatory tax levy;

(8) bonds of either a Kansas not-for-profit corporation or of a local housing authority that are rated at least Aa by Moody's investors service or AA by Standard & Poor's corp.;

(9) bonds issued pursuant to K.S.A. 12-1740 et seq., and amendments thereto, that are rated at least MIG-1 or Aa by Moody's investors service or AA by Standard & Poor's corp.;

(10) notes of a Kansas not-for-profit corporation that are issued to provide only the interim funds for a mortgage loan that is insured by the federal housing administration;

(11) bonds issued pursuant to K.S.A. 74-8901 through 74-8916, and amendments thereto;

(12) bonds issued pursuant to K.S.A. 68-2319 through 68-2330, and amendments thereto;

(13) commercial paper that does not exceed 270 days to maturity and which has received one of the two highest commercial paper credit ratings by a nationally recognized investment rating firm; or

(14) (A) negotiable promissory notes together with first lien mortgages on one to four family residential real estate located in Kansas securing payment of such notes when such notes or mortgages:

(i) Are underwritten by the federal national mortgage association, the federal home loan mortgage corporation, the federal housing administration or the veterans administration standards; ~~or are valued pursuant to rules and regulations which shall be adopted by both the state bank commissioner and the savings and loan commissioner after having first being submitted to and approved by both the state banking board under K.S.A. 9-1713, and amendments thereto, and the savings and loan board. Such rules and regulations shall be published in only one place in the Kansas administrative regulations as directed by the state rules and regulations board.~~

(ii) have been in existence with the same borrower for at least two years and with no history of any installment being unpaid for 30 days or more; and

(iii) are valued at not to exceed 50% of the lesser of the following three values: Outstanding mortgage balance; current appraised value of the real estate; or discounted present value based upon current federal national mortgage association or government national mortgage association interest rates quoted for conventional, federal housing administration or veterans administration mortgage loans.

(B) Securities under *paragraph* (A) shall be taken at their value for not more than 50% of the security required under the provisions of this section.

(C) Securities under *paragraph* (A) shall be withdrawn immediately from the collateral pool if any installment is unpaid for 30 days or more.

(D) A status report on all such loans shall be provided to the investing governmental entity by the financial institution on a quarterly basis.

~~(e)~~(d) No such bank, savings and loan association or savings bank may deposit and maintain for the benefit of the governing body of a municipal or quasi-municipal corporation of the state of Kansas, any securities which consist of:

(1) Bonds secured by revenues of a utility which has been in operation for less than three years; or

(2) bonds issued under K.S.A. 12-1740 et seq., and amendments thereto, unless such bonds have been refunded in advance of their maturity as provided in subsection (d) or such bonds are rated at least Aa by Moody's investors service or AA by Standard & Poor's corp.

~~(f)~~(e) ~~Any expense incurred in connection with granting approval of revenue bonds shall be paid by the applicant for approval. Any applicant requesting approval of a revenue bond pursuant to subsection (c)(5) shall pay to the commissioner a fee in an amount established pursuant to section 12, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all amounts received under this section 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 bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.~~

Sec. 79. K.S.A. 9-1403 is hereby amended to read as follows: 9-1403. (a) During the periods of peak deposits occurring at tax paying time and tax distributing time and continuing for a period of not to exceed 60 continuous days at any given time and not to exceed 120 days in any calendar year the amount of security for the ~~deposit of public moneys deposits of municipal corporations or quasi-municipal corporations~~ as required under K.S.A. 9-1402, and amendments thereto, may be reduced by ~~not more than 1/2 in an amount thereof up to 50% of the amount on deposit during the peak period.~~

~~(b) The provisions of this section shall apply only to the deposits of all municipal corporations and quasi-municipal corporations, but~~ If the custodian of the funds of each of such ~~municipal corporations or quasi-municipal corporations~~ municipal corporation or quasi-municipal corporation together with an officer of the depository bank, savings and loan association or savings bank ~~may agree to reduce the amount of security as provided in subsection (a), then the parties shall enter into an agreement which designates in writing the beginning and end of each such sixty-day period, and a copy thereof, fully executed, shall be kept on file in the office of the governing body of such municipal corporation or quasi-municipal corporation and in the files of such bank, savings and loan association or savings bank.~~

Sec. 80. K.S.A. 9-1405 is hereby amended to read as follows: 9-1405. (a) All bonds and securities given by any bank, savings and loan association or savings bank to secure public moneys of the United States or any board, commission or agency thereof, shall be deposited as required by the United States government or any of its designated agencies.

(b) All securities, security entitlements and financial assets securing the deposits of any municipal corporation or quasi-municipal corporation shall be deposited *as described in subsection (c) or (d) or in a securities account with a bank incorporated under the laws of this state, or organized under the laws of the United States or one of the following custodial banks or trust companies:*

- (1) *A Kansas state bank;*
- (2) *a Kansas national bank;*
- (3) *a state bank organized in another state and which has a main or branch office in this state, a;*
- (4) *a trust company incorporated under the laws of this state or another state;; or*
- (5) *the federal home loan bank of Topeka or.*

(c) *Securities, security entitlements and financial assets securing the deposits of any municipal corporation or quasi-municipal corporation may be deposited with the state treasurer pursuant to a written custodial agreement and a receipt taken therefor issued with one copy going to the municipal corporation or quasi-municipal corporation making the public deposit and one copy going to the bank, savings and loan association or savings bank which has secured such public deposits. The receipt shall identify the securities, security entitlements and financial assets which are subject to a security interest to secure payment of the deposits of the municipal corporation or quasi-municipal corporation.*

(d) *Securities, security entitlements and financial assets securing the deposits of any municipal corporation or quasi-municipal corporation may be deposited with the federal reserve bank of Kansas City to be there held in such manner, under regulations and operating letters of the federal reserve bank of Kansas City, as to secure payment of the deposits of the municipal corporation or quasi-municipal corporation in the depository institution.*

(e) ~~This section shall not prohibit any custodial bank or trust company receiving securities, security entitlements and financial assets on deposit from issuing a receipt and from depositing securities, security entitlements and financial assets identified in the receipt in such bank's account with any bank chartered in Kansas or any other state, any trust company chartered in Kansas or any other state, any national bank, in the custodial bank or trust company's account if:~~

(1) *The custodial bank or trust company's account is located at a bank or trust company organized under the laws of any state, the United States or any centralized securities depository wherever located within the United States;; and*

(2) *the custodial bank or trust company issues a receipt which identifies the securities, security entitlements and financial assets on deposit at the custodial bank or trust company.*

(f) No securities, security entitlements and financial assets securing

public deposits shall be deposited in any ~~bank, trust company, or national bank which is owned directly or indirectly~~ *custodial bank or trust company which has the following commonalities with the depository bank, savings and loan association or savings bank:*

(1) ~~Direct or indirect ownership by any parent corporation of the depository bank, or with any bank, trust company, or national bank, having:~~

(2) common controlling shareholders, ~~having a;~~

(3) common majority of the board of directors ~~or having;~~ or

(4) common directors with the ability to control or influence directly or indirectly the acts or policies of the *depository* bank, savings and loan association or savings bank securing such public deposits.

(g) When securities, security entitlements and financial assets are deposited with the state treasurer as authorized by this ~~subsection~~ *section*, the state treasurer shall make a charge for such service which is equivalent to the reasonable and customary charge made therefor. ~~Securities, security entitlements and financial assets securing the deposits of any municipal corporation or quasi-municipal corporation may be deposited with the federal reserve bank of Kansas City to be there held in such manner, under regulations and operating letters of the bank, as to secure payment of the deposits of the municipal corporation or quasi-municipal corporation in the depository institution.~~

~~(c) The depository bank, savings and loan association or savings bank and any agent, trustee, wholly-owned subsidiary or affiliate having identical ownership granting a security interest shall enter into a written agreement with the municipal corporation or quasi-municipal corporation granting the municipal corporation or quasi-municipal corporation a security interest in the securities, security entitlements and financial assets qualified under K.S.A. 9-1402, and amendments thereto, to secure payment of deposits of public moneys of the municipal corporation or quasi-municipal corporation. Such security interests shall be perfected by the depository bank, savings and loan association or savings bank and any agent, trustee, wholly-owned subsidiary or affiliate having identical ownership granting a security interest causing control of the securities, security entitlements and financial assets under the Kansas uniform commercial code to be given to the municipality or quasi-municipality. The security agreement and~~

~~(h)~~ The custodial agreement shall be in writing, executed by all parties thereto, maintained as part of their official records, and except for the municipal corporations or quasi-municipal corporation, approved by their boards of directors or their loan committees, which approvals shall be reflected in the minutes of the boards or committees.

~~(d)~~(i) A bank, savings and loan association or savings bank which fails to pay according to its terms any deposit of public moneys of any municipal or quasi-municipal corporation shall immediately take ~~such actions~~

~~as are required~~ *action* to enable bonds and securities pledged to secure such deposit to be sold to satisfy its obligation to the municipal or quasi-municipal corporation.

Sec. 81. K.S.A. 2014 Supp. 9-1407 is hereby amended to read as follows: 9-1407. (a) That portion of any deposit of public moneys or funds which is insured by the federal deposit insurance corporation, or its successor, need not be secured as provided in ~~this act~~ *article 14 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto.*

(b) Public moneys or funds deposited by a municipal corporation or quasi-municipal corporation ~~through~~ *in* a selected bank, savings and loan association or savings bank which are part of a reciprocal deposit program ~~in which the bank, savings and loan association or savings bank shall not be treated as securities and need not be secured as provided in article 14 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, if the:~~

(1) *Bank, savings and loan association or savings bank* 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 act.~~

Sec. 82. K.S.A. 2014 Supp. 9-1408 is hereby amended to read as follows: 9-1408. As used in article 14 of chapter 9 of the Kansas Statutes Annotated, *and amendments thereto:*

(a) ~~“Bank” means any bank incorporated under the laws of this state or any other state, or organized under the laws of the United States and which has a main or branch office in this state~~ *“Branch” means any office within this state or another state, other than the main office, that is approved as a branch by a federal or state supervisory agency and at which deposits are received, checks paid or money lent. Branch does not include an automated teller machine, remote service unit or similar device, a loan production office or a deposit production office;*

(b) *“centralized securities depository” means a clearing agency registered with the securities and exchange commission which provides safe-keeping and book-entry settlement services to its participants;*

(c) *“government unit” means any state, county, municipality or other political subdivision thereof;*

(d) *“Kansas national bank” means a federally chartered bank which has a main office or branch located in this state;*

(e) *“Kansas state bank” means a Kansas state chartered bank;*

(f) “main office” means the place of business specified in the articles of association, certificate of authority or similar document where the business of the institution is carried on and which is not a branch;

(g) “municipal corporation” or “quasi-municipal corporation” includes each investing governmental unit under K.S.A. 12-1675, and amendments thereto;

(h) “savings and loan association” means any savings and loan association incorporated under the laws of this state or any other state; or organized under the laws of the United States and which has a main or branch office in this state;

~~(e)~~(i) “savings bank” means any savings bank organized under the laws of the United States and which has a main or branch office in this state; and

~~(d)~~ “centralized securities depository” means a clearing agency registered with the securities and exchange commission which provides safekeeping and book entry settlement services to its participants;

~~(e)~~ “municipal corporation” or “quasi-municipal corporation” includes each investing governmental unit under K.S.A. 12-1675, and amendments thereto;

~~(f)~~ “main office” means the place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch;

~~(g)~~ “branch” means any office within this state, other than the main office, that is approved as a branch by a federal or state supervisory agency, at which deposits are received, checks paid or money lent. Branch does not include an automated teller machine, remote service unit or similar device or a loan production office;

~~(h)~~(j) “securities,” “security entitlements,” “financial assets,” “securities account,” “security agreement,” “security interest,” “perfection” and “control” shall have the meanings given such terms under the Kansas uniform commercial code.

Sec. 83. K.S.A. 9-1501 is hereby amended to read as follows: 9-1501. The state recognizes that the storing and safekeeping of personal property in safe deposit boxes is germane and pertinent but not exclusive to the business of banking and trust companies, and that suitable laws should be enacted covering the relations resulting therefrom; and that all such laws also should extend to separately incorporated safe deposit companies inasmuch as banks are authorized by this act to incorporate and conduct separately their safe deposit business. Any bank, trust company or safe deposit corporation may maintain safe deposit boxes and rent the same for consideration. The bank, trust company or safe deposit corporation shall prescribe the hours of entry into its safe deposit vault and may also retain and require the use of a preparation or guard key for the protection

*of the bank, trust company or deposit corporation and the user of such box.*

Sec. 84. K.S.A. 9-1502 is hereby amended to read as follows: 9-1502. ~~Any bank, either national or state, or trust company or safe deposit corporation, may maintain safe deposit boxes and rent the same for a consideration. The relationship between any such bank, trust company or safe deposit company having and maintaining safe deposit boxes for public use; and the user or users of such boxes shall be that of landlord and tenant lessor and lessee, respectively;. In the absence of a written contract to the contrary; notwithstanding the fact that such bank, trust company or safe deposit corporation prescribes the hours of entry into its safe deposit vault, and also retains and requires the use of a preparation or guard key for the protection of itself and the user of such box.~~

~~The rights, duties, powers and privileges of any such bank, trust company or safe deposit corporation in any such transaction shall be that of landlord and for all purposes the tenant or, the lessee shall be deemed by law to be in possession of such box and the contents thereof. The lessor shall not be charged with knowledge of the contents of any such box. The lessor may limit its liability to the lessee by provisions contained within a lease agreement, except, that but the lessor shall be liable for the acts of its officers and employees for failure to exercise ordinary care.~~

Sec. 85. K.S.A. 9-1503 is hereby amended to read as follows: 9-1503. Joint tenancy in and to a safe deposit box may be created by contract, with two or more persons named as lessees. The terms of ~~such the~~ contract may provide that any one or more of the lessees, or the survivor or survivors of such lessee or lessees, shall have access and entry to ~~such the~~ safe deposit box and the right to remove the contents from such box whether the other lessee or lessees be living, incompetent or dead, ~~and in case of such removal the lessor shall not be liable for the removal thereof. If the contents are removed as provided by the contract, the lessor shall not be liable for the removal of the contents.~~

Sec. 86. K.S.A. 9-1504 is hereby amended to read as follows: 9-1504. (a) In the event the sole lessee or all lessees in joint tenancy named in the lease agreement covering a safe deposit box rental shall die, the safe deposit box may be opened, forcibly if necessary, at any time thereafter, in the presence of persons ~~claiming to be interested in the contents thereof~~ holding a legal or beneficial interest relating to the lessee, by two employees of the lessor, one of whom shall be an officer of the lessor. *The contents shall be disposed of as follows:*

(1) *Instruments of a testamentary nature may be removed by the named executor. If no executor is named or if the named executor fails to act within 60 days after the date of death of the lessee, such employees may remove all instruments of a testamentary nature and deposit the*

same with the district court, ~~taking its receipt therefor~~ pursuant to K.S.A. 59-601 *et seq.*, and amendments thereto.

(2) The employees in their discretion may deliver life insurance policies therein contained to the beneficiaries named in such policies, and any deed to a cemetery lot and any burial instructions found therein to the appropriate parties.

(3) Any and all other contents of such box so opened shall be kept and retained by the bank, trust company or safe deposit company and shall be delivered only to the parties legally entitled to the same.

(b) In the event no person claims to be interested in the contents of such box within 60 days after the death of the lessee, the lessor may open the box by forcible entry and remove all instruments of a testamentary nature and deposit the same with the district court pursuant to K.S.A. 59-601 *et seq.*, and amendments thereto, subject to payment of rentals, expenses and repairs. *Any and all other contents of such box so opened shall be kept and retained by the bank or trust company and shall be delivered only to the parties legally entitled to the same.*

Sec. 87. K.S.A. 9-1505 is hereby amended to read as follows: 9-1505. Upon the death of any lessee of a safe deposit box and upon the request of the district court or the county clerk or the director of taxation for the state of Kansas, the lessor shall ~~reply to such request and inform such official if the~~ disclose whether a designated person was the lessee of a safe deposit box at the time of death.

Sec. 88. K.S.A. 9-1506 is hereby amended to read as follows: 9-1506. (a) The lessor shall have a lien upon the contents of any safe deposit box for the rental thereon. ~~¶~~

(b) *The lessor may, after giving not less than 60 days' written notice to the lessee of such lessor's intention to enter the box, remove the contents and sell the same for the payment of rent due or other expenses incurred by the bank in keeping the contents, open the box forcibly and remove the contents in the presence of two of its employees, one of whom shall be an officer, when:*

(1) ~~The lessee shall not pay has not paid the rent within thirty (30) 30 days after the same is due, then the lessor, after giving not less than sixty (60) days' written notice to the lessee, personally or by registered mail delivered to the latest address shown upon the safe deposit records of the lessor, of its intention to sell the contents of said box for the payment of rent and expenses may open the box forcibly and remove the contents in the presence of two of its employees, one of whom shall be an officer thereof ; or~~

(2) *the lessee has failed to surrender possession of any box within 30 days from the date of the termination of the lease.*

(c) ~~The lessor then shall retain such contents for at least ninety (90) 90 days thereafter and after opening the box. The lessor then may sell~~

any part or all of ~~said~~ *the contents at public sale by giving notice thereof in like manner as notice is required when chattels are sold under execution, pursuant to the requirements for a commercially reasonable sale under article 9 of the Kansas uniform commercial code and retain from the proceeds of sale and the rental due it, the rent due, the costs of opening and repairing the box, and the costs of sale and any other amounts due to the lessor.*

(d) Any article, item or document without apparent market value may be destroyed after two ~~(2)~~ years from the date of giving or mailing the required notice.

(e) *Any notice required by this section shall be delivered either personally or by registered mail delivered to the latest address shown on the safe deposit records of the lessor.*

Sec. 89. K.S.A. 2014 Supp. 9-1601 is hereby amended to read as follows: 9-1601. (a) Any bank, upon the affirmative vote of at least  $\frac{2}{3}$  of the voting stock, may apply to the commissioner for approval to conduct trust business. If approval is granted by the commissioner, a special permit shall be issued and the bank shall be authorized ~~and empowered~~, subject to such conditions as the commissioner may require, ~~to act in one or more fiduciary capacities as~~ *exercise all powers necessary or incidental to carrying on a trust business and also may exercise the following powers to:*

- (1) *Receive for safekeeping personal property of every description;*
- (2) *accept and execute any trust agreement and perform any trustee duties as required by such trust agreement;*
- (3) *act as agent, trustee, executor, administrator, registrar of stocks and bonds, conservator, assignee, receiver, custodian, transfer agent, corporate trustee, corporate agent corporate trustee or attorney-in-fact in any agreed-upon capacity;*
- (4) *accept and execute all trusts and to perform any fiduciary duties as may be committed or transferred to it by order, judgment or decree of any court of record of competent jurisdiction;*
- (5) *act as executor or trustee under the last will and testament, or as administrator, with or without the will annexed to the letters of administration, of the estate of any deceased person;*
- (6) *be a conservator for any minor, incapacitated person or trustee for any convict under the appointment of any court of competent jurisdiction;*
- (7) *receive money in trust for investment in real or personal property of every kind and nature and to reinvest the proceeds thereof;*
- (8) *act as either an originating trustee or as a contracting trustee pursuant to K.S.A. 9-2107, and amendments thereto;*
- (9) *buy and sell foreign or domestic exchange, gold, silver, coin or bullion;*

(10) ~~act in any other fiduciary capacity in the same manner in and to perform any act as a fiduciary which trust companies incorporated under the laws of this state are permitted to act, including but not limited to the right of succession to individuals, corporations, associations, national bank associations or others, with or without reappointment, in any such office or capacities may perform under any provision of the banking or insurance laws of this state, including, without limitation, acting as a successor fiduciary to any trust company upon liquidation pursuant to K.S.A. 9-2107, and amendments thereto; and~~

(11) *to perform or purchase trust services for or from a bank or service corporation through a trust service agency agreement provided the commissioner is notified 30 days after contracting for the service. Such notification shall include the trust services provided, the name of the servicer and the date the service will commence.*

(b) (1) *The commissioner has the discretion to grant or reject the application of any bank to acquire trust authority. In making such determination, the commissioner shall take into consideration:*

(A) *The reasonable probability of usefulness and success of the bank having trust authority;*

(B) *the financial history and condition of the bank and the character, qualifications and experience of the trust officers and personnel; and*

(C) *any other facts and circumstances that the commissioner deems appropriate.*

(2) *If the commissioner denies an application, the applicant shall have the right to a hearing to be conducted in accordance with the Kansas administrative procedure act. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.*

~~(b)~~(c) (1) *If the governing instrument limits investment of funds to deposit in time or savings deposits in the bank, any bank may act as trustee or custodian for any of the following without being issued a special permit:*

(A) ~~Individual retirement accounts established pursuant to section 408 of the federal internal revenue code of 1986, and amendments thereto 26 U.S.C. § 408;~~

(B) ~~trusts established pursuant to section 401 of the federal internal revenue code of 1986, and amendments thereto 26 U.S.C. § 401; and~~

(C) ~~medical savings accounts established pursuant to section 220 of the federal internal revenue code of 1986, and amendments thereto 26 U.S.C. § 220.~~

(2) *If the governing instrument limits investment of funds to deposit in time, savings or demand deposits in the bank, any bank may act as a trustee or custodian for any health savings accounts established pursuant to section 223 of the federal internal revenue code of 1986, and amendments thereto 26 U.S.C. § 223, without being issued a special permit pursuant to subsection (a).*

~~(e)~~(d) Any state bank having been granted trust authority by the ~~bank commissioner of the state of Kansas~~ may add “and trust company” to its corporate name.

(e) *A bank making application to the commissioner for approval to conduct trust business shall pay to the commissioner a fee, in an amount established pursuant to section 12, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all moneys received under this section 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 bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.*

Sec. 90. K.S.A. 9-1602 is hereby amended to read as follows: 9-1602.

(a) ~~The commissioner has the discretion to grant or reject the application of any bank to acquire trust authority. The commissioner shall take into consideration the amount of capital and surplus of such bank, the needs of the community to be served and any other facts and circumstances that the commissioner shall deem proper.~~

~~(b)~~—The commissioner may revoke trust authority for any bank or trust company upon finding a failure to adhere to sound fiduciary practices.

~~(e)~~(b) *If the commissioner revokes the trust authority of a bank or trust company subject to revocation of trust authority shall be afforded, the bank shall have the right to a hearing to be conducted in accordance with the provisions of the Kansas administrative procedure act. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.*

Sec. 91. K.S.A. 9-1603 is hereby amended to read as follows: 9-1603.

(a) As soon as any bank shall exercise any trust authority, it shall segregate all assets held in any fiduciary capacity and shall keep a separate set of books and records showing in proper detail all ~~transactions had in any fiduciary capacity~~ *fiduciary transactions*. Such books and records shall at all times ~~shall be open to the inspection of, and subject to the~~ *be subject to inspection and supervision of;* the commissioner.

(b) Funds held by such bank in trust ~~that are awaiting investment or distribution, less the amount of insurance carried in which is insured by the federal deposit insurance corporation, shall be carried in a separate account and shall not be used by the bank in the conduct of its business unless it first shall set aside in the trust department,~~ *have* United States bonds or other securities approved by the commissioner *pledged to such funds* in an equal sum.

Sec. 92. K.S.A. 9-1604 is hereby amended to read as follows: 9-1604.

Upon the affirmative vote of a majority of the outstanding voting stock, any bank having trust authority may ~~liquidate, or may consolidate or merge its trust department with any other bank having trust authority or with any trust company, and any trust company may liquidate, or may consolidate or merge with any other trust company or with any bank having trust authority, except that such liquidation, consolidation or merger shall not be effective until the commissioner has approved the same in writing after the terms have been submitted to the commissioner for examination and approval~~ terminate the bank's trust business. The termination of trust services shall be done in accordance with the Kansas uniform trust code and with the contracting trustee provisions of K.S.A. 9-2107, and amendments thereto. Any bank terminating the bank's trust business may surrender such bank's special permit for trust authority or be granted inactive status pursuant to K.S.A. 9-1703, and amendments thereto.

Sec. 93. K.S.A. 9-1607 is hereby amended to read as follows: 9-1607.

(a) ~~Any state or national~~ bank or trust company, when acting ~~in this state~~ as a fiduciary or a co-fiduciary with others, ~~may~~ and with the consent of its co-fiduciary or co-fiduciaries, if any, who are hereby authorized to give such consent, ~~may~~ cause any investment held in any such capacity; to be registered and held in the name of a nominee or nominees of such bank or trust company. Such bank or trust company shall be liable for the acts of any such nominee with respect to any investment so registered.

(b) *The records of the bank or trust company shall at all times show the ownership of any investment registered and held in the name of a nominee, which investment shall be in the control of the bank or trust company and be kept separate and apart from the assets of the bank or trust company.*

Sec. 94. K.S.A. 9-1609 is hereby amended to read as follows: 9-1609.

(a) ~~Any state or national~~ bank or trust company ~~qualified~~ authorized to act as fiduciary ~~in this state~~ may establish common trust funds for the purpose of furnishing investments to ~~itself~~:

(1) *Such bank or trust company as fiduciary, or to itself;*

(2) *such bank or trust company and others, as cofiduciaries or to;*

(3) *another state or national bank or trust company, as fiduciary, which is a subsidiary of the same bank holding company of which it is a subsidiary, as such terms are defined in K.S.A. 9-519, and amendments thereto; and any state or national or*

(4) *another state or national bank or trust company with which it is affiliated through common control, as defined in K.S.A. 9-1612, and amendments thereto.*

(b) ~~Any~~ bank or trust company ~~qualified~~ authorized to act as fiduciary ~~in this state~~ may, as such fiduciary or cofiduciary, invest funds which it lawfully holds for investment in interests in such common trust funds, if

such investment is not prohibited by the instrument, judgment, decree or order creating such fiduciary relationship, and if, in the case of cofiduciaries, the bank or trust company procures the consent of its cofiduciaries to such investment. ~~The state banking board is hereby authorized to adopt rules and regulations for a plan of operation for the management of funds for state banks and trust companies.~~

Sec. 95. K.S.A. 9-1611 is hereby amended to read as follows: 9-1611. Whenever the governing instrument of any trust authorizes a bank or trust company acting as fiduciary to ~~either engage in any of the following activities, such instrument shall also be deemed to authorize the bank or trust company to engage in the following activities, with any company which has or acquires control of such bank or trust company:~~

(a) Hold as a trust investment its own stock or obligations, or property acquired from ~~itself the bank or trust company;~~ or

(b) sell or transfer, by loan or otherwise, property held as fiduciary to ~~itself the bank or trust company;~~ or

(c) purchase for investment the stock or obligations of, or property from, ~~itself, such instrument shall also be deemed to authorize such bank or trust company to deal in any manner described above, with any company which has or acquires control of such~~ the bank or trust company.

Sec. 96. K.S.A. 9-1612 is hereby amended to read as follows: 9-1612. For the purposes of ~~this act~~ K.S.A. 9-1601 through 9-1611, and amendments thereto, any company has control over a bank or trust company if: ~~(a)~~ the company directly or indirectly, or acting through one or more persons;

(a) Owns, controls or has power to vote ~~twenty-five percent (25%)~~ 25% or more of any class of voting securities of the bank or trust company; ~~or~~

(b) ~~the company~~ controls, in any manner, the election of a majority of the directors or trustees of the bank or trust company; or

(c) ~~has the power to direct the management or policies of the bank or trust company.~~

Sec. 97. K.S.A. 9-1701 is hereby amended to read as follows: 9-1701. (a) The commissioner or the commissioner's ~~assistant or examiners staff~~ shall visit each bank and trust company at least once every 18 months, and may visit any bank or trust company ~~if the~~ at any time the commissioner deems ~~it~~ necessary; for the purpose of making ~~a full and careful examination and an examination or inquiry~~ into the condition of the affairs of such bank or trust company. For such purpose, the commissioner; ~~and the commissioner's assistant and examiners staff~~ are authorized to administer oaths and to examine under oath the directors, officers, employees and agents of any bank or trust company. ~~Such examination shall be reduced to writing by the person making it and such person's reports shall contain a full, true and careful statement of the condition of such bank~~

~~or trust company. The commissioner in lieu of making a direct examination and inquiry may accept the examination and report of an authorized federal agency.~~

*(b) The results of any examination pursuant to this section shall be reduced to writing by the commissioner or the commissioner's staff. The commissioner shall provide to the board of directors of the bank or trust company a copy of the examination report written by the state examiners. Neither the commissioner, the commissioner's assistant nor any examiner shall examine any bank or trust company in which the person making such examination is a stockholder or is otherwise financially interested or to which bank or trust company or any officer thereof the person making the examination is indebted. No person shall personally examine a bank or trust company if that person is a stockholder of, indebted to or otherwise financially interested in that bank or trust company.*

~~(b)-(c)~~ *(c) The examination team may conduct an exit review meeting with the board of directors of a bank or trust company following the examination of such bank or trust company as provided in subsection (a); of such bank or trust company. Such an exit review shall be conducted when requested by the board of directors or management of the bank or trust company. Minutes shall be kept at all exit review meetings by the bank in any manner the bank determines to be appropriate.*

*(d) The commissioner is hereby authorized to accept any examination report or any other report on a state bank or trust company made by the:*

- (1) Federal deposit insurance corporation or its successor;*
- (2) federal reserve bank; or*
- (3) consumer financial protection bureau.*

Sec. 98. K.S.A. 2014 Supp. 9-1702 is hereby amended to read as follows: 9-1702. (a) The commissioner or the commissioner's ~~designee staff~~ is hereby authorized to examine the fiduciary affairs of any officer or employee of any bank or trust company when such officer or employee is serving in any fiduciary capacity that may affect the safety and soundness of such bank or trust company.

(b) The commissioner or the commissioner's ~~designee staff~~ is hereby authorized to examine any investment company, holding company, corporation or any other form of business entity which is affiliated with any bank or trust company to fully ascertain:

- (1) The relationship between such bank or trust company and any such affiliate; and
- (2) the effect of such relationship on the bank or trust company.

(c) For the purposes of this section, "affiliate" shall have the meaning ascribed to it in section 2 of the bank holding act of 1956, 12 U.S.C. § 1841.

Sec. 99. K.S.A. 2014 Supp. 9-1703 is hereby amended to read as follows: 9-1703. (a) The expense of every regular examination, together

with the expense of administering the banking and savings and loan laws, including salaries, travel expenses, supplies and equipment, shall be paid by the banks and savings and loan associations of the state, ~~and for this purpose the bank commissioner shall~~. Prior to the beginning of each fiscal year, *the commissioner shall* make an estimate of the expenses to be incurred by the department during such fiscal year. From this total amount, the commissioner shall deduct the estimated amount of the anticipated annual income to the fund from all sources other than bank and savings and loan association assessments. The commissioner shall allocate and assess the remainder to the banks and savings and loan associations in the state on the basis of their total assets, as reflected in the last March 31 report called for by the federal deposit insurance corporation under the provisions of section 7 of the federal deposit insurance act, 12 U.S.C. § 1817, ~~and amendments thereto~~, or K.S.A. 17-5610, and amendments thereto, except that the annual assessment will not be less than \$1,000 for any bank or savings and loan association.

(b) (1) The expense of every regular trust examination, together with the expense of administering trust laws, including salaries, travel expenses, supplies and equipment, shall be paid by the trust companies and trust departments of banks of this state, ~~and for this purpose, the bank commissioner~~. Prior to the beginning of each fiscal year, *the commissioner shall* make an estimate of the trust expenses to be incurred by the department during such fiscal year. The commissioner shall allocate and assess the trust departments in the state on the basis of their total fiduciary assets, as reflected in the last December 31 report called for by the federal deposit insurance corporation under the provisions of section 7 of the federal deposit insurance act, 12 U.S.C. § 1817, ~~and amendments thereto~~, or K.S.A. 17-5610, and amendments thereto, except that the annual assessment shall not be less than \$1,000 for any active trust department. The commissioner shall allocate and assess the trust companies in the state on the basis of their fiduciary assets as reflected in the last December 31 report filed with the commissioner pursuant to K.S.A. 9-1704, and amendments thereto, except that the annual assessment will not be less than \$1,000 for any active trust company. A trust department *or trust company* which has no fiduciary assets, as reflected in the last December 31 report called for by the federal deposit insurance corporation under the provisions of section 7 of the federal deposit insurance act, 12 U.S.C. § 1817, ~~and amendments thereto~~, or K.S.A. 17-5610, and amendments thereto, may be granted inactive status by the commissioner and the annual assessment shall not be more than \$100 for the inactive trust department. ~~A trust company which has no fiduciary assets, as reflected in the last preceding year-end report filed with the commissioner, may be granted inactive status by the commissioner and the annual assessment shall not be more than \$100 for an inactive trust company.~~

(2) No inactive trust department or trust company shall accept any

fiduciary assets or exercise any part of or all of its trust authority until such time as it has applied for and received prior written approval of the commissioner to reactivate its trust authority.

(c) (1) A statement of each assessment made under the provisions of subsection (a) or (b) shall be sent by the commissioner on July 1 or the next business day thereafter, to each bank, savings and loan association, trust department and trust company that exists as a corporate entity with the secretary of state's office ~~as of the close of business on June 30~~, and is authorized by the ~~office of the state bank~~ commissioner to conduct banking, savings and loan or trust business. The assessment may be collected by the ~~state bank~~ commissioner as needed and in such installment periods as the commissioner deems appropriate, but no more frequently than monthly. When the commissioner issues an invoice to collect the assessment, payment shall be due within 15 days of the date of the invoice. The commissioner may impose a penalty upon any bank, savings and loan association, trust department or trust company which fails to pay its annual assessment when it is 15 days or more past due. The penalty shall be assessed in the amount of \$50 for each day the assessment is past due.

(2) The commissioner shall remit all moneys received from such examination 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. ~~Ten percent and credit 10% of each deposit shall be credited to the state general fund and with the balance shall be credited transferred to the bank commissioner fee fund.~~ All expenditures from the bank commissioner 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 commissioner or by a person or persons designated by the commissioner.

(d) The amount of expenses incurred and the cost of service performed on account of any bank, trust department or trust company or other corporation which are outside the normal expenses of an examination required under the provisions of K.S.A. 9-1701 or 17-5612, and amendments thereto, shall be charged to and paid by the bank, trust department, trust company or corporation for which such expenses were incurred or cost of services performed.

(e) As used in this section, "savings and loan association" means a Kansas state-chartered savings and loan association.

(f) (1) In the event a bank, savings and loan association or trust company is merged into, consolidated with; or the assets and liabilities of which are purchased and assumed by another bank, savings and loan association or trust company; between the preceding March 31 and June 30, for banks and savings and loan associations, or the preceding December 31 and June 30, for trust companies, the surviving or acquiring bank, savings and loan association or trust company is obligated to pay the as-

assessment based on the value of the assets of all institutions involved with the merger, consolidation or assumption for the following fiscal year commencing July 1.

(2) In the event a bank, savings and loan association; or trust company is merged into, consolidated with; or the assets and liabilities of which are purchased and assumed by another bank, savings and loan association or trust company after July 1, the surviving entity shall be obligated to pay the unpaid portion of the assessment for the remainder of the fiscal year commencing July 1 which would have been due of the institution being merged, consolidated or assumed.

Sec. 100. K.S.A. 2014 Supp. 9-1704 is hereby amended to read as follows: 9-1704. (a) Each bank or trust company shall be required to make a report to the commissioner at any time upon the commissioner's request. Such reports shall be in a form *and manner* prescribed by the commissioner and shall be verified by the president, chief executive officer or cashier and attested by at least three directors of the bank or trust company, none of whom shall have verified the report. The report shall show in detail the assets and liabilities of the bank or trust company at the close of business upon the date determined by the commissioner ~~and such report shall be forwarded to the commissioner.~~ The commissioner may require a copy of the report, or a portion thereof, to be published in a newspaper, published in or having a general circulation in the place where the bank or trust company is located, within 10 days after the report is forwarded to the commissioner. The expense of publication shall be paid by the bank or trust company.

(b) Each trust company shall report to the commissioner all assets held by the trust company in a fiduciary capacity as of December 31 of each year. The report shall be in the form *and manner* prescribed by the commissioner; and shall be filed with the commissioner by January 30 of each year. The commissioner may require the report to be filed using an electronic means.

(c) Each trust department of a bank shall report to the commissioner all assets held by the trust department in a fiduciary capacity at any time upon the commissioner's request. The report shall be in the form prescribed by the commissioner. The commissioner may require the report to be filed using an electronic means.

(d) *A request for information made pursuant to this section shall be made in writing and mailed to each bank and trust company. The request shall be deemed to be legal notice to each bank and trust company. The request may include the requirement for the filing of information by the bank or trust company using electronic means.*

Sec. 101. K.S.A. 9-1708 is hereby amended to read as follows: 9-1708. ~~Whenever any~~ No officer, director, employee or agent of any bank or trust company shall refuse to submit the books, records, papers and instru-

~~ments of such bank or trust company to the examination and inspection of the bank or trust company by the commissioner, or any of the commissioner's assistants or examiners, or in any manner obstruct or interfere with the examination and investigation of such bank or trust company; or refuse to be examined on under oath concerning any of the affairs of such bank or trust company, the commissioner may revoke the authority of such bank or trust company to transact business, and with the concurrence of the attorney general may institute proceedings for the appointment of a receiver for such bank or trust company. The commissioner may take such action as available pursuant to K.S.A. 9-1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to remedy any violation of the provisions of this section.~~

Sec. 102. K.S.A. 9-1709 is hereby amended to read as follows: 9-1709. ~~Any (a) No bank or trust company which shall refuse or neglect for a period of 90 days after demand in writing is made to comply with any requirement lawfully made upon it by the commissioner shall be deemed to have forfeited its franchise and the commissioner shall thereupon revoke its authority to transact business. The commissioner shall give notice of such revocation to the president, cashier, or other managing officer of such bank or trust company and also by publishing a copy of such order of revocation in the Kansas register. The attorney general, upon the request of the commissioner, then shall begin action for the appointment of a receiver for such bank or trust company and to dissolve the same. for more than 60 days to comply with or respond to a written, lawful request of the commissioner. If the bank or trust company does not comply with or respond to any such request, the commissioner may issue an order notifying the bank or trust company that continued failure to comply with the request shall result in the forfeiture of the authority to transact business. Any bank or trust company receiving notice of such order shall have the right to a hearing to be conducted in accordance with the Kansas administrative procedure act. Any final order of the commissioner is subject to review in accordance with the Kansas judicial review act.~~

*(b) If any request or requirement made pursuant to an order issued under subsection (a) remains unsatisfied after a period of time as provided in the order, the commissioner shall appoint a receiver pursuant to article 19 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto. The order appointing the receiver shall not be subject to the Kansas administrative procedure act or the Kansas judicial review act.*

*(c) The commissioner may take such additional action as available pursuant to K.S.A. 9-1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to protect the depositors and creditors of the bank or trust company.*

Sec. 103. K.S.A. 9-1712 is hereby amended to read as follows: 9-1712. (a) All information the state bank commissioner generates in making an

investigation or examination of a state bank or trust company shall be confidential information.

(b) All confidential information shall be the property of the state of Kansas and shall not be ~~subject to disclosure~~ *disclosed* except upon the written approval of the ~~state bank~~ commissioner.

(c) ~~Except for disclosure pursuant to subsection (e) and K.S.A. 9-2014, and amendments thereto,~~ the commissioner shall give 10 days prior written notice ~~to the affected bank or trust company~~ of intent to disclose confidential information ~~to the affected bank or trust company, except that, such confidential information shall not apply to reports filed pursuant to K.S.A. 9-2014, and amendments thereto.~~

(d) Any bank or trust company receiving notice ~~as provided in subsection (c),~~ of the intent to disclose confidential information may object to the disclosure of the confidential information and shall be afforded the right to a hearing in accordance with the provisions of the Kansas administrative procedure act.

(e) (1) *The commissioner may furnish to the federal deposit insurance corporation, or to any officer or examiner thereof, a copy of any or all examination reports made by the commissioner, or the commissioner's examiners, of any bank or trust company insured by such corporation. The commissioner may disclose to the federal deposit insurance corporation, or any official or examiner thereof, any and all information contained in the commissioner's office concerning the condition of any bank or trust company insured by such corporation.*

(2) *The commissioner may disclose any and all information contained in the commissioner's office concerning the condition of any bank or trust company to the:*

- (A) *Federal reserve bank;*
- (B) *office of the comptroller of currency;*
- (C) *federal home loan bank;*
- (D) *office of thrift supervision;*
- (E) *financial crimes enforcement network; or*
- (F) *consumer financial protection bureau.*

(3) *The commissioner may furnish to the state treasurer a copy of any or all examination information relating specifically to apparent violations of the uniform unclaimed property act, K.S.A. 58-3934 through 58-3978, and amendments thereto.*

(4) *To reduce the potential for duplicative and burdensome filings, examinations and other regulatory activities, the commissioner, by agreement, may establish an information sharing and exchange program with any regulatory agency of this state, another state or the United States concerning activities that are financial in nature, incidental to financial activities, or complementary to financial activities, as those terms are used in 15 U.S.C. § 6801 et seq. on the effective date of this act. Each agency that is party to such an agreement shall agree to maintain confidentiality*

of information that is confidential under applicable state or federal law and to take all reasonable steps to oppose any effort to secure disclosure of the information by such agency.

(5) Disclosure of information by or to the commissioner pursuant to this section shall not constitute a waiver of or otherwise affect or diminish a privilege to which the information is otherwise subject, whether or not the disclosure is governed by a confidentiality agreement. "Privilege" includes any work product, attorney-client or other privilege recognized under federal or state law.

(6) Nothing in this section shall be construed to limit the powers of the commissioner with reference to examinations and reports required by the state banking code.

~~(e)~~(f) As used in this section, "information" means, but is not limited to, all documents, oral and written communication and all electronic data.

~~(f)~~(g) Any person who violates this section, upon conviction, shall be guilty of a class C misdemeanor.

(h) The commissioner may provide any person with a letter of good standing upon request. Any person requesting a letter of good standing shall pay to the commissioner a fee in an amount established pursuant to section 12, and amendments thereto, to defray the expenses of the commissioner in investigating and complying with the request. The commissioner shall remit all moneys received under this section 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 bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.

Sec. 104. K.S.A. 2014 Supp. 9-1713 is hereby amended to read as follows: 9-1713. Except as otherwise provided by law, in order to promote safe and sound practices for entities regulated by the state bank commissioner, the commissioner shall ~~adopt~~ promulgate such rules and regulations as shall be necessary to implement the provisions of K.S.A. 9-542, and amendments thereto, commonly known as the state banking code. All rules and regulations of general application shall first be submitted by the commissioner to the state banking board for its the state banking board's approval and upon approval shall be filed as provided by article 4 of chapter 77 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 105. K.S.A. 9-1714 is hereby amended to read as follows: 9-1714. (a) Whenever the state bank commissioner shall determine that the business of any bank or trust company is being conducted in an unlawful or unsound manner, ~~such~~ the commissioner may appoint a special deputy

bank commissioner who shall immediately take charge of the operation of such bank or trust company for the purpose of ~~correcting~~ *resolving* any unlawful or unsound condition or operation. ~~Such appointment shall be made in accordance with the provisions of K.S.A. 77-536, and amendments thereto.~~

(b) After appointment, the special deputy bank commissioner shall continue to serve under the direction of the commissioner for such period of time as may be deemed reasonable and necessary by the commissioner and, during such period, such special deputy bank commissioner's salary, which shall be determined by the commissioner, and expenses shall be borne by the bank or trust company under supervision.

(c) After such appointment, any such bank or trust company shall have the right ~~within 15 days from the date of the notice of such appointment to appeal in writing to the state banking board, and upon such appeal, the state banking board shall fix a date for a hearing, which hearing shall be within 30 days from the date of such appeal and shall be conducted in accordance with the provisions of the Kansas administrative procedure act. The board shall render an order as to the correctness or incorrectness of the commissioner's decision to take over the conduct of such bank or trust company, and the order of such board shall be final and conclusive to a hearing to be conducted in accordance with the Kansas administrative procedure act. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.~~

Sec. 106. K.S.A. 9-1715 is hereby amended to read as follows: 9-1715.

(a) (1) *Notwithstanding any provision of law to the contrary, the commissioner shall have the power to authorize any or all state banks to engage in any activity in which such banks could engage were they operating as any insured depository institution at the time such authority is granted, including but without limitation because of enumeration the power to do any act, and own, possess and carry as assets, property of such character including stocks, bonds or other debentures which, at the time authority is granted, is authorized under applicable laws and regulations to be done by any insured depository institution notwithstanding any restriction elsewhere contained in the statutes of the state of Kansas any other bank, savings and loan association or a savings bank, organized under the laws of the United States, this state or any other state whose deposits are insured by the United States government is lawfully authorized to engage in at the time authority is granted.*

(2) ~~This power shall include~~ *The commissioner shall have the power to authorize any or all Kansas trust companies, trust departments or both to engage in any trust-related activity in which the any trust company or trust department of any insured depository institution with trust powers could engage, organized under the laws of the United States, this state or*

*any other state, is lawfully authorized to engage in at the time authority is granted. This power shall be in addition to any and all other powers granted to the commissioner.*

(b) (1) The commissioner shall exercise the power granted in subsection (a) by the issuance of a special order if the commissioner deems it reasonably required to: (A) Preserve and protect the welfare of a particular institution, ~~or if the commissioner deems it reasonably required to~~; or (B) preserve the welfare of all state banks or trust companies and to promote competitive equality of state and other insured depository institutions.

Such special order shall provide for the effective date thereof and upon and after such date shall be in full force and effect until amended or revoked by the commissioner. Promptly following issuance, the commissioner shall mail a copy of each special order to all state banks and trust companies and shall be published in the Kansas register.

(c) The commissioner, at the time of issuing any special order pursuant to this section, shall prepare a written report, which shall include a description of the special order and a copy of the special order; and submit the written report to:

- (1) The president and the minority leader of the senate;
- (2) the chairperson and ranking minority member of the senate standing committee on financial institutions and insurance;
- (3) the speaker and the minority leader of the house of representatives;
- (4) the chairperson and ranking minority member of the house of representatives standing committee on financial institutions; and
- (5) the governor.

(d) Within two weeks of the beginning of each legislative session, the commissioner shall submit to the ~~chair of the senate standing committee on financial institutions and insurance, and the chair of the house standing committee on financial institutions,~~ a written summary of each special order issued during the preceding year *senate committee on financial institutions and insurance and the house of representatives committee on financial institutions, a written summary of each special order issued during the preceding year.* Upon request of the chair of the senate standing committee on financial institutions and insurance or the chair of the house standing committee on financial institutions, the commissioner, or the commissioner's designee, shall appear before the committee to discuss any special order issued during the preceding year. If the committee desires information concerning the economic impact of any special order, the committee chair or ranking minority member may request assistance from the division of budget.

(e) The issuance of special orders under this section shall not be subject to the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated, *and amendments thereto.*

(f) ~~As used in this statute, “insured depository institution” means a bank, a savings and loan association or a savings bank organized under the laws of the United States, this state, or any other state, whose deposits are insured by the United States government. The powers contained in this section shall be in addition to any and all other powers granted to the commissioner.~~

Sec. 107. K.S.A. 9-1716 is hereby amended to read as follows: 9-1716. ~~If the state bank commissioner shall determine that the condition of any bank is such that dividends should not be declared and paid upon its capital stock from capital or that such dividends should be declared and paid only subject to certain conditions, the commissioner shall render an order in accordance with the provisions of K.S.A. 77-536, and amendments thereto, that no such dividends be declared and paid or that such dividends be declared and paid only subject to certain conditions. The board of directors of the bank shall comply with such order until such time as it is rescinded or modified by the commissioner by subsequent order served upon the bank or by the state banking board upon appeal. Within 15 days after prohibiting or limiting the declaration and payment of dividends. Upon receiving notice of the order, the bank shall have the right to appeal in writing to the board from the commissioner’s determination and order by filing a notice of appeal with the commissioner, and thereupon the board shall fix a date for a hearing, which hearing shall be held within 30 days from the date such notice of appeal is filed. The board shall conduct the hearing in accordance with the provisions of the Kansas administrative procedure act and render its order affirming, modifying or rescinding the order of the commissioner, and the order of the board shall be final and conclusive and shall be complied with by the board of directors of the bank a hearing to be conducted in accordance with the Kansas administrative procedure act. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.~~

Sec. 108. K.S.A. 9-1717 is hereby amended to read as follows: 9-1717. (a) Except with the written consent of the commissioner, no person shall serve as a director, officer or employee of a bank who has been convicted, or who is hereafter convicted, of any felony or any crime involving dishonesty or a breach of trust.

(b) Any bank which willfully violates subsection (a), shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of ~~\$100~~ \$1,000 for each day the violation continues.

Sec. 109. K.S.A. 9-1719 is hereby amended to read as follows: 9-1719. As used in K.S.A. 9-1719 to ~~9-1723~~ 9-1722, inclusive, ~~and amendments thereto:~~

(a) “Control” means the power ~~directly or indirectly to direct the management or policies of a financial institution or to:~~

- (1) Vote 25% or more of any class of voting shares ~~of a bank;~~  
 (2) *direct, in any manner, the election of a majority of the directors;*  
 or  
 (3) *direct or exercise a controlling influence over the management or policies.*
- (b) ~~“Bank” means a state bank or trust company incorporated under the laws of Kansas.~~  
 (c) ~~“Commissioner” means the Kansas state bank commissioner.~~  
 (d) ~~“Person” means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization or any other form of entity not specifically listed in this subsection.~~  
 (e) ~~“Board” means the Kansas banking board.~~

Sec. 110. K.S.A. 9-1720 is hereby amended to read as follows: 9-1720. *Except with the approval of the commissioner, or as otherwise permitted by the state banking code, it shall be unlawful for a person, acting directly or indirectly or through concert with one or more persons; to:*

- (a) ~~Acquire control of any bank through purchase, assignment, pledge or other disposition of voting shares of such bank, except with the approval of the commissioner or as otherwise allowed by this act or trust company; or~~  
 (b) *commence any merger transaction with a bank or trust company which includes, but is not limited to, any merger, consolidation, acquisition of assets or assumption of any liabilities.*

Sec. 111. K.S.A. 2014 Supp. 9-1721 is hereby amended to read as follows: 9-1721. (a) *The party proposing to acquire, control or effectuate a merger transaction, hereinafter referred to as the applicant, shall apply in writing for approval from the commissioner shall be given at least 60 days’ prior written notice of any proposed bank acquisition to the proposed change of control or merger transaction. If the commissioner does not issue an order disapproving the proposed acquisition within that time or extend the period during which a disapproval may issue for another 30 days, the proposed acquisition act on the application within the 60-day time period, the application shall stand approved. The commissioner may, for any reason, extend the time period to act on an application for an additional 30 days. The period for disapproval time period to act on an application may be further extended only if the commissioner determines that any acquiring party the applicant has not furnished all the information required under K.S.A. 9-1722, and amendments thereto, or that, in the commissioner’s judgment, any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the commissioner issues written notice of the commissioner’s intent not to disapprove the action.*

- (b) ~~The commissioner shall serve the acquiring party with an order~~

of disapproval. The order shall provide a statement of the basis for the disapproval.

(c) ~~Within 15 days after service of an order of disapproval, the acquiring party may request a hearing on the proposed acquisition with the board. Upon receipt of a timely request, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act.~~

(d) ~~Any disapproval by the board of a proposed acquisition is subject to review in accordance with the Kansas judicial review act.~~

(e) ~~Actual expense incurred by the commissioner or board in carrying out any investigation that may be necessary or required by statute shall be paid by the person submitting the proposed acquisition. Upon the filing of an application, the commissioner shall make an investigation of each party to the change of control or merger transaction. The commissioner may deny the application if the commissioner finds the:~~

(1) *Proposed change of control or merger transaction would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or attempt to monopolize the business of banking or trust services in any part of this state;*

(2) *financial condition of any party to a change of control or merger transaction might jeopardize the financial stability of the bank or trust company or prejudice the interests of the depositors of a bank;*

(3) *competence, experience or integrity of any party to a change of control or merger transaction or of any of the proposed management personnel indicates it would not be in the interest of the depositors of the bank, the clients of trust services, or in the interest of the public to permit such person to control the bank or trust company; or*

(4) *applicant neglects, fails or refuses to furnish the commissioner with all of the information required by the commissioner.*

(c) *Upon service of an order denying an application, the applicant shall have the right to a hearing to be conducted in accordance with the Kansas administrative procedure act before the state banking board. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.*

Sec. 112. K.S.A. 2014 Supp. 9-1722 is hereby amended to read as follows: 9-1722. (a) ~~A notice of a proposed bank acquisition.~~ An application filed pursuant to K.S.A. 9-1721, and amendments thereto, shall contain the following information:

(1) ~~The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition~~ *change of control or merger transaction is to be made, including such person's* the material business activities and affiliations during the past five years and a description of any material pending legal or administrative pro-

ceedings in which the person is a party and any criminal indictment or conviction of such person by a state or federal court;

(2) a statement of the assets and liabilities of each person by whom or on whose behalf the ~~acquisition~~ *change of control or merger transaction* is to be made, ~~as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded and an interim statement of the assets and liabilities for each such person, together~~ *along with any* related statements of income and source and application of funds, as of a date not more than 90 days prior to the date of the ~~filing of the notice~~ *application*. Individuals who own 10% or more shares in a bank holding company, as defined in K.S.A. 9-519, and amendments thereto, shall file the financial information required by this paragraph;

(3) the terms and conditions of the proposed ~~acquisition~~ *change of control or merger transaction* and the manner in which ~~the acquisition~~ *such change of control or merger transaction* is to be made;

(4) the identity, source and amount of the funds or other considerations used or to be used in making the ~~acquisition~~ *change of control or merger transaction* and, if any part of these funds or other considerations has been or is to be borrowed or otherwise obtained for ~~the~~ *such* purpose ~~of making the acquisition~~, a description of the transaction, the names of the parties, and any arrangements, agreements or understandings with such persons;

(5) any plans or proposals which any ~~acquiring party making the acquisition~~ *applicant* may have to liquidate the bank, ~~to sell its assets or merge it with any company or trust company~~ or to make any other major change in its business or corporate structure or management;

(6) the identification of any person employed, retained or to be compensated by ~~the acquiring~~ *any* party or by any person on such person's behalf to make solicitations or recommendations to stockholders for the purpose of assisting in the ~~acquisition~~ *change of control or merger transaction* and a brief description of the terms of such employment, retainer or arrangement for compensation;

(7) copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed ~~acquisition~~ *change of control or merger transaction*;

(8) *when applicable, the certified copies of the stockholder proceedings showing a majority of the outstanding voting stock was voted in favor of the change of control or merger transaction*; and

~~(8)-(9)~~ (9) any additional relevant information in ~~such forms as the department may require by specific request in connection with any particular notice~~ *the form and manner prescribed by the commissioner*.

(b) With regard to any trust company which files a notice pursuant

to this section, the commissioner may require fingerprinting of any proposed officer, director, shareholder or any other person deemed necessary by the commissioner. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction. The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons proposing to acquire the trust company. Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.

(c) The commissioner may accept an application filed with the federal reserve bank or federal deposit insurance corporation in lieu of a statement filed pursuant to subsection (a). The commissioner may, in addition to such application, request additional relevant information.

(d) ~~At the time of filing a notice of a proposed bank acquisition an application pursuant to K.S.A. 9-1721, and amendments thereto, or an application filed pursuant to subsection (c), the applicant shall pay to the commissioner a fee in an amount established by rules and regulations adopted by the commissioner pursuant to section 12, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all moneys received under this section 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 bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.~~

Sec. 113. K.S.A. 9-1724 is hereby amended to read as follows: 9-1724. (a) ~~Before any bank can merge, consolidate with or transfer its assets and liabilities under the provisions of article 67 or article 68 of chapter 17 of the Kansas Statutes Annotated, the bank concerned in such merger, consolidation or transfer shall file, or cause to be filed, with the state banking commissioner, certified copies of all proceedings had by its directors and stockholders relating to such merger, consolidation or transfer. The stockholders' proceedings shall show that a majority of the outstanding voting stock was voted in favor of the merger, consolidation or transfer. The stockholders' proceedings shall also contain a complete copy of the agreement made and entered into by the bank, with reference to such merger, consolidation or transfer. The provisions of this act~~ *The provisions of*

*K.S.A. 9-1720 through 9-1724, and amendments thereto*, shall not apply to the merger, consolidation or transfer of assets and liabilities transaction of a bank or trust company when the surviving entity is a national banking association or other federally chartered financial institution, except that the bank shall provide written notification to the state bank commissioner of such a merger, consolidation or transfer of assets and liabilities at least 10 days prior to its consummation. ~~In addition,~~

(b) Not more than 15 days following such a ~~any~~ merger, consolidation or transfer of assets and liabilities, the bank transaction, any bank or trust company that will cease to exist shall surrender its such bank's or trust company's state certificate of authority or charter and shall certify in writing that the proper instruments as required by the Kansas general corporation code have been executed and filed in accordance with K.S.A. 17-6003, and amendments thereto.

~~Upon the filing of the stockholders and directors' proceedings, the commissioner shall make an investigation of each party to the merger, consolidation or transfer to determine whether:~~

(1) ~~The interests of the depositors, creditors and stockholders of the bank are protected;~~

(2) ~~the merger, consolidation or transfer is in the public interest, and~~

(3) ~~the merger, consolidation or transfer is made for legitimate purposes.~~

~~The commissioner's consent to or rejection of such merger, consolidation or transfer shall be based upon such investigation. No merger, consolidation or transfer shall be made without the consent of the commissioner. At the time of filing the request for merger, consolidation or transfer, a fee shall be paid to the commissioner in an amount established by rules and regulations adopted by the commissioner.~~

(c) Notice of the merger, consolidation or transfer transaction shall be published at least once each week for three consecutive weeks before or after the merger, consolidation or transfer is to become effective, at the discretion of the commissioner, twice in a newspaper of general circulation published in each city or county in which the bank is located, or the newspaper nearest such city or county and a certified copy of the each notice shall be filed with the commissioner. *The first publication shall be no later than five days after an application is filed. The second publication shall be on the 14th day after the date of the first publication or, if the newspaper does not publish on the 14th day, then the date that is the closest to the 14th day. The notice shall be in the form prescribed by the commissioner and shall provide for a comment period of not less than 10 days after the date of the second publication.*

(b) ~~As used in this section, "bank" means a state bank or trust company incorporated under the laws of Kansas.~~

Sec. 114. K.S.A. 2014 Supp. 9-1805 is hereby amended to read as

follows: 9-1805. (a) If the *state banking* board finds ~~in accordance with this section~~ that any current or former officer or director of any bank or trust company has been dishonest, reckless or incompetent in performing duties as such officer or director, or willfully or continuously fails to observe any legally made order of the commissioner or *the state banking* board, the *state banking* board may take one or more of the following actions:

(1) Remove such officer or director; and

(2) prohibit such officer's or director's further participation in any manner in the conduct of the affairs of any state bank or trust company in Kansas.

~~(b) Prior to removing such officer or director, or prohibiting such officer's or director's participation in the conduct of the affairs of any state bank or trust company in Kansas, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. The officer or director shall have the right to a hearing before the state banking board to be conducted in accordance with the Kansas administrative procedure act. Any action of the state banking board pursuant to this section is subject to review in accordance with the Kansas judicial review act.~~

~~(c) The board may recess or continue any hearing from time to time. If upon the conclusion of such hearing, the state banking board determines that the officer or director has been dishonest, reckless or incompetent in performing duties as such an officer or director, or has willfully or continuously failed to comply with any legally made order of the commissioner or state banking board, the state banking board may order the officer's or director's office forfeited and vacated officer or director to vacate the office and prohibit such officer's or director's further participation in the conduct of the affairs of any state bank or trust company in Kansas. The state banking board shall mail a copy of its removal order to the bank or trust company which where such officer or director was serving. If the order prohibits such officer's or director's further participation in the conduct of the affairs of any state bank or trust company in Kansas, such order shall be published in the Kansas register within 30 days after such order becomes final.~~

~~(d) During the time from and after any legally made order by the commissioner and upheld by the board, or order made by the board, and not complied with by any officer or director the board may place a special deputy in the bank up to and until the final disposition of the order by compliance or final disposition by order of the district court.~~

~~(e) Any action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act. If on review the court upholds an order of the board removing an officer or director or if review of such an order is not sought within the time allowed by law, the office of the officer or director shall be forfeited and vacated by law and~~

~~such office shall then be filled in accordance with existing statutes and by laws by another person or persons.~~

Sec. 115. K.S.A. 9-1807 is hereby amended to read as follows: 9-1807. (a) ~~If the state bank commissioner shall determine finds that any bank or trust company is engaging or, has engaged, or the commissioner has reasonable cause to believe that the bank or trust company or is about to engage; in an unsafe or unsound practice in conducting the business of such bank or trust company; or if the commissioner shall determine finds that any bank or trust company is violating or, has violated; or the commissioner has reasonable cause to believe that the bank or trust company is about to violate a law, rule, and regulation or order of the commissioner or state banking board, the commissioner may issue and serve upon the bank or trust company a notice of charges in respect thereof. The notice of charges shall contain a statement of the facts constituting the alleged unsafe or unsound practice or practices or the alleged violation or violations that forms the basis for a proposed cease and desist order; and shall state the time and place at which a hearing will be held by the state banking board to determine whether an order to cease and desist therefrom should be issued by the state banking board against the bank or trust company. Such hearing shall be fixed for a date not earlier than thirty (30) 30 days nor later than sixty (60) 60 days after service of such notice.~~

(b) ~~Unless the bank or trust company shall appear at the hearing by a duly authorized representative, it, such bank or trust company shall be deemed to have consented to the issuance of the cease and desist order. In the event of such consent, or if upon the record made at any such hearing, the state banking board shall find that any unsafe or unsound practice or violation specified in the notice of charges has been established, the state banking board may issue and serve upon the bank or trust company an order to cease and desist from any such practice or violation. Such order may, by provisions which may be mandatory or otherwise, require the bank or trust company and its such bank's or trust company's directors, officers, employees and or agents to cease and desist from the same, and, further, or to take affirmative action to correct the conditions resulting from any such practice or violation. A cease and desist order shall become effective at the time specified therein; and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified; or terminated or set aside by action of by the state banking board.~~

(c) ~~Whenever the commissioner shall determine finds that the a bank's or trust company's unsafe or unsound practice or practices or the violation or violations specified in the notice of charges served upon the bank or trust company, violation, or the continuation thereof, is likely to cause insolvency or, substantial dissipation of assets or earnings of the~~

~~bank or trust company~~, or is likely to otherwise seriously prejudice the interests of its depositors, the commissioner may issue a temporary order requiring the bank or trust company to cease and desist from any such practice or ~~practices or violation or violations~~. *The order shall contain a notice of charges with a statement of the facts that forms the basis for a proposed temporary cease and desist order.* Such order shall be effective upon service ~~thereof upon~~ on the bank or trust company; and shall remain effective and enforceable pending the completion of the proceedings pursuant to such notice and until such time as the *state banking* board shall dismiss the charges specified in such notice, or if a cease and desist order is issued against the bank or trust company, until the effective date of any such order.

Sec. 116. K.S.A. 9-1901 is hereby amended to read as follows: 9-1901. Any corporation *that is not insolvent or critically undercapitalized and otherwise* transacting business under ~~this act~~ *the state banking code* may be dissolved by the district court of the county in which its place of business is located, in the following manner: A verified petition shall be filed in the office of the clerk of said court, signed by the president or a majority of the board of directors, setting forth that stockholders representing two-thirds in amount of the stock of such association have adopted a resolution favoring such dissolution, and directing proceedings to be instituted for that purpose, a copy of which resolution shall set forth that all claims and demands against such association have been paid and discharged; and thereupon a notice shall be published for the time and in the manner prescribed by the law for service by publication. Such notice shall state the name of the court in which the petition has been filed, the substance and purpose thereof, and that unless objections are filed thereto on or before a time to be stated, which shall not be less than forty-one days from the first publication, the relief prayed for will be granted.

—A copy of such notice shall be sent to the bank commissioner within ten days after the first publication thereof, and the commissioner shall, within thirty days thereafter, make a thorough examination of the affairs of such bank, and file a certified copy of the report with said petition. Any creditor or stockholder may, on or before the time fixed by the notice, and afterwards, if permitted by the court, file written objections to the dissolution of such corporation. The petition and objections thereto, if any, shall stand for hearing the same as a civil action, and if upon the hearing thereof the court shall be satisfied that the petition is true, and that there is no valid objection to the dissolution of such corporation, it shall render judgment dissolving the same *its board of directors in accordance with K.S.A. 17-6801 et seq., and amendments thereto, provided the bank has completed a liquidation to the satisfaction of the commissioner pursuant to section 5, and amendments thereto.*

Sec. 117. K.S.A. 9-1902 is hereby amended to read as follows: 9-1902.

A bank or trust company shall be deemed to be insolvent when: ~~(1)~~(a) The actual cash market value of ~~its~~ a bank's or trust company's assets is insufficient to pay ~~its~~ such bank's or trust company's creditor liabilities, except that for this purpose unconditional evidence of indebtedness of the United States of America may be valued, at the discretion of the commissioner, at par or cost whichever is the lesser; ~~(2)~~ or (b) when it is unable to meet the demands of its creditors in the usual and customary manner; ~~(3)~~ when it shall fail to make good its reserve as required by this act.

Sec. 118. K.S.A. 9-1902a is hereby amended to read as follows: 9-1902a. A bank or trust company is critically undercapitalized when the ratio of its capital to total assets is equal to or less than 2.0%. For the purposes of this section, capital shall be the ~~sum~~ total of the institution's common stock, surplus, undivided profits, capital reserves, noncumulative perpetual preferred stock and outstanding cumulative perpetual preferred stock ~~(including related surplus)~~, but intangibles, such as goodwill, shall not be included in the capital calculation.

Sec. 119. K.S.A. 9-1903 is hereby amended to read as follows: 9-1903. If it shall appear upon the examination of any bank or trust company or from any report made to the commissioner that any bank or trust company is:

(a) Critically undercapitalized, the commissioner may:

(1) Enter an informal memorandum pursuant to section 3, and amendments thereto, to notify the bank or trust company of the unsafe and unsound condition and require the bank or trust company to correct the condition within the time prescribed by the commissioner; or

(2) take charge of such bank or trust company and all of its property and assets. ~~If from such examination or reports it shall appear any bank or trust company is insolvent the commissioner shall take charge of such bank or trust company and all of its property and assets. In so doing In taking charge of a critically undercapitalized bank or trust company, the commissioner may:~~

(A) Appoint a special deputy commissioner to take charge temporarily of the affairs of ~~such insolvent or critically undercapitalized~~ the bank or trust company ~~until a receiver is appointed. Such deputy shall qualify, give bond and receive compensation as determined by the commissioner, but such compensation shall be paid by the insolvent or critically undercapitalized bank or trust company or in case of the appointment of a receiver allowed by the court as costs in the case. After appointment, the special deputy shall continue to serve under the direction of the commissioner for such period of time as deemed reasonable and necessary by the commissioner before returning charge of the bank or trust company back to the board of directors of the institution or appointing a~~

~~receiver. In no case shall any bank or trust company continue in the charge of a special deputy for a period exceeding nine months; or~~

~~(B) appoint a receiver if it shall appear at any time that the bank or trust company cannot sufficiently recapitalize, resume business or liquidate the bank's or trust company's indebtedness to the satisfaction of the depositors and creditors of such bank or trust company.~~

~~(b) Insolvent, the commissioner shall take charge of the bank or trust company and all property and assets of such bank or trust company. In taking charge of an insolvent bank or trust company, the commissioner shall:~~

~~(1) Appoint a special deputy commissioner to take charge temporarily of the affairs of the bank or trust company; or~~

~~(2) appoint a receiver if it shall appear at any time that the bank or trust company cannot sufficiently recapitalize, resume business or liquidate its indebtedness to the satisfaction of the depositors and creditors of such bank or trust company.~~

Sec. 120. K.S.A. 9-1905 is hereby amended to read as follows: 9-1905. ~~When the commissioner shall take charge of any insolvent or critically undercapitalized bank or trust company pursuant to article 19 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, the commissioner shall ascertain its actual condition as soon as possible by making a thorough investigation into its affairs and condition, and if the commissioner shall be satisfied that such bank or trust company cannot sufficiently recapitalize, resume business or liquidate its indebtedness to the satisfaction of its depositors and creditors, then the commissioner forthwith shall appoint a receiver therefor and require the receiver to give such bond as the commissioner deems proper. (a) In the event the commissioner appoints a receiver for any bank or trust company, the commissioner shall appoint:~~

~~(1) The federal deposit insurance corporation; or~~

~~(2) any individual, partnership, association, limited liability company, corporation or any other business entity which shall have accounting, regulatory, legal or other relevant experience in the field of banking or trust as shall be determined by the commissioner.~~

~~(b) Any receiver other than the federal deposit insurance corporation shall give such bond as the commissioner deems proper and immediately file in the district court of the county where the bank or trust company is located for liquidation, disposition and dissolution pursuant to the state banking code, and K.S.A. 17-101 et seq., and amendments thereto, and as may be ordered by the court.~~

~~(1) The commissioner also shall fix receiver shall be entitled to reasonable compensation for the receiver but the same shall be subject to the approval of the district court of the county wherein such bank or trust company is located upon the application of any party in interest.~~

~~Any receiver shall be a resident of the state of Kansas and shall have had at least five years credit experience.~~

(2) Upon written application made within 30 days after the ~~finding of insolvency the commissioner shall~~ *filing in district court, the court may* appoint as receiver any person whom the holders of more than 60% in amount of the claims against such bank or trust company shall agree upon in writing. The creditors so agreeing may also agree upon the compensation and charges to be paid such receiver. Each receiver so appointed shall make a complete report to the commissioner covering the receiver's acts and proceedings as such. ~~The commissioner may remove for cause any receiver and appoint the receiver's successor.~~

*(c) The bank or trust company shall have the right to petition for review of the commissioner's order taking charge, appointment of a special deputy or appointment of a receiver. Such review shall not be subject to the provisions of K.S.A. 77-501 et seq., and amendments thereto. A petition for review shall be filed within 10 days of the commissioner's action. Notwithstanding any provision of law to the contrary, or by order of the court, review shall proceed as expeditiously as possible pursuant to the provisions of K.S.A. 77-601 et seq., and amendments thereto. Notwithstanding any provision of law to the contrary, the decision of the district court may be appealed only to the supreme court of Kansas. The time within which an appeal may be taken shall be 10 days from final disposition of the district court.*

Sec. 121. K.S.A. 9-1906 is hereby amended to read as follows: 9-1906.

(a) A receiver appointed pursuant to K.S.A. 9-1905, and amendments thereto, ~~under the direction of the commissioner other than the federal deposit insurance corporation, shall take charge of any insolvent or critically undercapitalized bank or trust company and all of its assets and property, and liquidate the affairs and business thereof for the benefit of its depositors, creditors and stockholders. The receiver may sell or compound all bad and doubtful debts and sell all the property of the bank or trust company upon such terms as the district court of the county where the bank or trust company is located shall approve. The receiver shall pay over all moneys received to the creditors and depositors of such bank or trust company as ordered by the commissioner.~~

(b) In distributing assets of the ~~insolvent or critically undercapitalized~~ bank or trust company in payment of its liabilities, the order of payment, in the event its assets are insufficient to pay in full all of its liabilities, shall be by category as follows:

(1) The costs and expenses of the receivership and real and personal property taxes assessed against the bank *or trust company* pursuant to applicable law;

(2) claims which are secured or given priority by applicable law;

(3) claims of unsecured depositors;

(4) all other claims exclusive of claims on capital notes and debentures; *and*

(5) claims on capital notes and debentures.

Should the assets be insufficient for the payment in full of all claims within a category, such claims shall be paid in the order provided by other applicable law or, in the absence of such applicable law, pro rata.

Sec. 122. K.S.A. 9-1907 is hereby amended to read as follows: 9-1907. The federal deposit insurance corporation or its successor, hereby is authorized and empowered to be and act without bond as receiver ~~or liquidator of any insolvent or critically undercapitalized of any bank, the deposits in which are to any extent insured by such corporation, and which bank shall have been closed. In the event of any such closing of any bank the commissioner may tender to the insurance corporation the appointment as receiver or liquidator of such bank, and.~~ If the *federal deposit insurance corporation, or its successor*, accepts the appointment, then ~~such the federal deposit insurance corporation, or its successor, shall have and possess succeed to all the rights, titles, powers and privileges and shall assume all the duties and requirements provided by the laws of this state with respect to a state receiver or liquidator, respectively, of a bank, its depositors and other creditors, and shall be subject to the jurisdiction of the district courts and supreme court of Kansas of the bank and of any stockholder, member, account holder, depositor, officer or director of the bank with respect to the bank.~~

Sec. 123. K.S.A. 9-1908 is hereby amended to read as follows: 9-1908. Whenever the federal deposit insurance corporation, or its successor, shall accept the appointment as receiver ~~or liquidator~~ for any bank the possession of and title to all of the assets, business, and property of every kind, ~~including real estate,~~ of such bank shall pass to and vest in ~~such the federal deposit insurance corporation, or its successor,~~ as receiver ~~or liquidator~~ without the execution of any instruments of assignment, endorsement, transfer or conveyance.

Sec. 124. K.S.A. 9-1909 is hereby amended to read as follows: 9-1909. All claims of depositors and other creditors must be filed with the receiver within one year after the date of the receiver's appointment, and if any claim is not ~~so~~ filed, then it shall be barred from participation in the estate and assets of any such bank or trust company.

Sec. 125. K.S.A. 9-1910 is hereby amended to read as follows: 9-1910. ~~The board of directors of any~~ *Upon the affirmative vote of 2/3 of the outstanding voting stock, the shareholders of a bank or trust company may place its affairs and assets under the control of the commissioner by posting a notice in the following forms on its front door: "This bank is in the hands of the state bank commissioner."* The posting of such notice or the taking possession and custody of any bank or trust company by the commissioner shall be sufficient to place all its assets and property of whatever

~~nature in the possession of the commissioner, and transfer all of its assets and property of whatever nature and any rights thereto to the possession and control of the commissioner and waive any right to the Kansas administrative procedure act, the Kansas judicial review act or any other lawful right to challenge the commissioner's authority without the execution of any instruments of assignment, endorsement, transfer or conveyance. Such action shall operate as a bar to any attachment proceedings.~~

Sec. 126. K.S.A. 9-1915 is hereby amended to read as follows: 9-1915. It shall be unlawful for the president, director, managing officer, cashier or any other officer of any bank to ~~assent to the reception of deposits or the creation of any debt by any bank~~ agree to accept deposits, in an amount that would create an excess above the federal deposit insurance corporation insured deposit amount, after such person has knowledge of the fact that such bank is insolvent or in failing circumstances. It hereby is made the duty of every such officer or managing officer to examine into the affairs of every such bank and know its condition if possible. Upon failure to discharge such duty such person shall be held to have had knowledge of the insolvency of such bank or that it was in failing circumstances, for the purposes of this ~~act~~ section. Every person who shall violate the provisions of this section shall be responsible individually for such deposits so received ~~and all debts so contracted~~, except that any director or officer who may have paid more than such person's share of the liabilities mentioned in this section shall have the proper remedy at law against such other persons as shall not have paid their full share of such liabilities.

Sec. 127. K.S.A. 9-1916 is hereby amended to read as follows: 9-1916. In all actions brought for the recovery of any deposits received ~~or debt created~~, in an amount that would create an excess above the federal deposit insurance corporation insured deposit amount, while any bank was insolvent or in failing circumstances, all officers, agents, and directors of such bank may be joined as defendants or proceeded against severally. The fact that any bank was insolvent or in failing circumstances at the time of the reception of the deposit ~~charged to have been so received, or the creation of the debt charged to have been so created~~, shall be prima facie evidence of such knowledge ~~and assent to such deposit or creation of such debt in accepting the deposit~~ on the part of such officer, agent, or director so charged therewith. This liability may be enforced by and against executors and administrators of any deceased officer, director or agent.

Sec. 128. K.S.A. 9-2001 is hereby amended to read as follows: 9-2001. Every ~~banker~~, officer, employee, director or agent of any bank or trust company who shall neglect to perform any duty required by ~~this act~~ the state banking code, or who shall fail to conform to any lawful requirement made by the ~~bank~~ commissioner, upon conviction shall be guilty of a class

~~A, nonperson misdemeanor, and upon conviction shall be punished by a fine not to exceed \$1,000, or by imprisonment not to exceed one year, or by both fine and imprisonment.~~

Sec. 129. K.S.A. 9-2002 is hereby amended to read as follows: 9-2002. Every officer, director, agent or ~~clerk~~ *employee* of any bank or trust company doing business in the state of Kansas; who willfully and knowingly subscribes to or makes any false report or any false statement or entry in the books of such bank or trust company, or knowingly subscribes or exhibits any false writing ~~or, paper or electronic equivalent~~, with the intent to deceive any person as to the condition of such bank or trust company, upon conviction shall be guilty of a severity level 8, nonperson felony.

Sec. 130. K.S.A. 2014 Supp. 9-2004 is hereby amended to read as follows: 9-2004. ~~(a)~~ Every officer, *director, agent* or employee of a bank or trust company required by ~~this act~~ *the state banking code* to take an oath or affirmation, who shall willfully swear or affirm falsely, shall be guilty of perjury, and upon conviction shall be punished as provided by K.S.A. 2014 Supp. 21-5903, and amendments thereto.

~~(b) (1) A violation of subsection (a) as provided in (b)(2) of K.S.A. 2014 Supp. 21-5903, and amendments thereto, is a severity level 7, non-person felony.~~

~~(2) A violation of subsection (a) as provided in (b)(1) of K.S.A. 2014 Supp. 21-5903, and amendments thereto, is a severity level 9, nonperson felony.~~

Sec. 131. K.S.A. 9-2005 is hereby amended to read as follows: 9-2005. Any bank commissioner or deputy bank commissioner who shall willfully neglect to perform any duty provided for by ~~this act~~ *the state banking code*, or who shall knowingly and willfully permit the violation of any of the provisions of ~~this act~~ *the state banking code* for a period of ~~ninety~~ 90 days; by any bank or trust company doing business under ~~this act~~ *the state banking code*, or who shall knowingly or willfully make any false statement concerning any bank or trust company; or who shall be guilty of any misconduct or corruption in office, upon conviction shall be deemed guilty of a class A, nonperson misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not exceeding one thousand dollars, or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment, in the discretion of the court, and in addition thereto and shall be removed from office by the governor.

Sec. 132. K.S.A. 9-2006 is hereby amended to read as follows: 9-2006. Any officer, *director, employee or agent* of any bank whose authority to transact a banking business has been revoked ~~as herein provided pursuant to the provisions of the state banking code~~, who shall receive or cause to be received any deposit of whatever nature after such revocation, upon conviction thereof, shall be subject to a fine of not less than \$300 nor

~~more than \$1,000, and by imprisonment for not less than six months nor more than one year shall be guilty of a severity level 8, nonperson felony.~~

Sec. 133. K.S.A. 9-2007 is hereby amended to read as follows: 9-2007. Any receiver of an insolvent bank or trust company, *other than the federal deposit insurance corporation*, who fails to comply with the provisions of subsection (a) of K.S.A. 9-1912, and amendments thereto or who violates any of the provisions of this act relating to the examination of banks or trust companies, shall be subject to the same penalties provided for of ~~icers or employees of banks or trust companies~~ *the state banking code*, upon conviction shall be guilty of a class A, nonperson misdemeanor.

Sec. 134. K.S.A. 9-2008 is hereby amended to read as follows: 9-2008. It shall be unlawful for any officer, ~~clerk~~ *director, employee* or agent of any bank doing business ~~under this act pursuant to the provisions of the state banking code~~ to certify any check, draft or order drawn upon the bank unless the person, firm or corporation drawing such check, draft or order has on deposit with the bank, at the time such check, draft or order is certified, an amount of money equal to the amount specified in such check, draft or order. Any check, draft or order so certified by the ~~duly~~ authorized officer, *director, employee or agent* shall be a good and valid obligation against such bank, ~~but~~. Any officer, ~~clerk~~ *director, employee* or agent of any bank violating the provisions of this section, upon conviction shall be deemed guilty of a class A, nonperson misdemeanor, ~~and upon conviction shall be punished as provided in K.S.A. 9-2007.~~

Sec. 135. K.S.A. 9-2010 is hereby amended to read as follows: 9-2010. No bank shall accept or receive on deposit, with or without interest, any money, bank bills or notes; or United States treasury notes, gold or silver certificates; or currency; or other notes, bills, checks; or drafts, when such bank is insolvent; ~~and~~. Any officer, director, ~~cashier, manager, member, partner or managing partner~~ *employee or agent* of any bank, who shall knowingly violate the provisions of this section or be accessory to or permit or connive at the receiving or accepting on deposit of any such deposit, ~~shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment in the custody of the secretary of corrections not less than one year nor more than five years, or by both such fine and imprisonment upon conviction shall be guilty of a severity level 8, nonperson felony.~~

Sec. 136. K.S.A. 9-2011 is hereby amended to read as follows: 9-2011. It shall be unlawful for any individual, firm or corporation to advertise, publish or otherwise promulgate that they are engaged in the banking business or trust business; without first having obtained authority from the ~~bank commissioner as herein provided~~. Any such individual or member of any such firm or officer of any such corporation violating this section ~~shall be guilty of a misdemeanor, and upon conviction shall be~~

punished by a fine not exceeding \$5,000, upon conviction shall be guilty of a class A, nonperson misdemeanor.

Sec. 137. K.S.A. 9-2012 is hereby amended to read as follows: 9-2012. ~~Every president, director, cashier, assistant cashier, teller, clerk, officer or agent of any bank or trust company who embezzles, abstracts or willfully misapplies any of the moneys, funds, securities or credits of the bank or trust company, or who issues or puts~~ (a) *It shall be unlawful for any shareholder, director, officer, employee or agent of any bank or trust company, with the intent to injure, defraud or deceive a bank or trust company, any agent appointed to examine the affairs of such bank or trust company, the commissioner or the commissioner's staff or any other person to:*

(1) *Issue or put forth any certificate of deposit, ~~draws~~ draw any draft or bill of exchange, ~~makes~~ make any acceptance, ~~assigns~~ assign any note, bond, draft, or bill of exchange, or who makes; or*

(2) *to make use of the name of the bank or trust company in any manner, with intent in either case to injure or defraud the bank or trust company or any individual, person, partnership, company or corporation; or to deceive any officer of the bank or trust company or any agent appointed to examine the affairs of the bank or trust company, and any person who with like intent aids or abets any officer, clerk or agent in violation of this act.*

(b) *It shall be unlawful for any person to aid or abet any shareholder, director, officer, employee or agent in violation of this section. Any person violating the provisions of this section, upon conviction shall be guilty of a severity level 7, nonperson felony.*

Sec. 138. K.S.A. 9-2013 is hereby amended to read as follows: 9-2013. (a) *Except as provided in subsection (c), it shall be unlawful for: (1) Any person or corporation to ~~corruptly~~ give, offer or promise anything of value to any person, with the intent to influence or reward an officer, director, employee, agent or attorney of any state bank or trust company in connection with any business or transaction of such bank or trust company; or*

(2) *any shareholder, officer, director, employee, agent or attorney of any state bank or trust company to ~~corruptly~~ solicit or demand for the benefit of any person; or to ~~corruptly~~ accept or agree to accept anything of value from any person intending to influence or reward in connection with any business or transaction of such bank or trust company.*

(b) *Any person or corporation violating the provisions of subsection (a), upon conviction, shall be guilty of a class A, nonperson misdemeanor.*

(c) *This section shall not apply to bona fide salary, wages, fees or other compensation paid; or expenses paid or reimbursed in the ~~usual~~ ordinary course of business.*

Sec. 139. K.S.A. 9-2014 is hereby amended to read as follows: 9-2014.

It shall be the duty of the ~~bank~~ commissioner ~~or any of the deputies of the commissioner~~, to inform the county or district attorney of the county in which the bank or trust company is located; of any violation of the county of the provisions of ~~this act~~ *the state banking code*, which constitute a misdemeanor or felony, by the *shareholders*, officers, directors, ~~owners~~ *agents* or employees of any bank or trust company, which shall come to the notice of the ~~bank~~ commissioner ~~or the commissioner's deputies~~, and upon receipt of such information the county or district attorney may institute proceedings to enforce the provisions of ~~this act~~.

Sec. 140. K.S.A. 9-2016 is hereby amended to read as follows: 9-2016. It shall be unlawful to transact a banking business or trust business without having first received a certificate from the commissioner. Any person violating the provisions of this section, either individually or as an interested party, in any association or corporation; *upon conviction* shall be guilty of a *class B, nonperson* misdemeanor, ~~and on conviction shall be fined in a sum of not less than \$300 nor more than \$1,000 or by imprisonment for not less than 30 days nor more than one year, or by both such fine and imprisonment.~~

Sec. 141. K.S.A. 9-2018 is hereby amended to read as follows: 9-2018. If any provision of ~~this act~~ *the state banking code*, or the application thereof, to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ~~act~~ *which state banking code* that can be given effect without the invalid provision or application, and to this end the provisions of ~~this act~~ *the state banking code* are declared to be severable.

Sec. 142. K.S.A. 9-2101 is hereby amended to read as follows: 9-2101. Any trust company authorized to receive deposits under K.S.A. 17-2025, prior to its repeal by ~~this act~~, shall be issued a certificate of authority by the ~~state bank~~ commissioner upon surrendering such trust company's charter and complying with the provisions of K.S.A. 9-804, and amendments thereto, and shall thereafter be subject to all of the requirements, limitations and terms of the *state banking code* ~~of Kansas~~.

Sec. 143. K.S.A. 9-2102 is hereby amended to read as follows: 9-2102. ~~(a)~~ All trust companies, *regardless of when* incorporated ~~after the effective date of this act~~, shall be organized and governed pursuant to ~~this act~~ *the state banking code*.

~~(b)~~ All trust companies incorporated before the effective date of this act, upon the effective date of this act, shall be subject to and governed by the provisions of ~~this act~~.

Sec. 144. K.S.A. 9-2103 is hereby amended to read as follows: 9-2103. (a) A trust company may exercise all powers necessary or incidental to carrying on a trust business, including, without limitation, all powers conferred upon a business corporation by the Kansas corporation code of

1972, and amendments thereto, and also may exercise the following powers:

(1) To receive for safekeeping personal property of every description;  
 (2) to accept and execute any trust agreement and perform any trustee duties as required by such trust agreement;

(3) to act as ~~assignee, transfer agent, registrar or receiver agent, trustee, executor, administrator, registrar of stocks and bonds, conservator, assignee, receiver, custodian, corporate trustee or attorney in fact in any agreed upon capacity;~~

(4) to accept and execute all trusts and to perform any fiduciary duties as may be committed or transferred to it by order, judgment or decree of any court of record of competent jurisdiction;

~~(5) to act as agent or attorney in fact in any agreed upon capacity;~~

~~(6)~~ to act as executor or trustee under the last will and testament, or as administrator, with or without the will annexed to the letters of administration, of the estate of any deceased person;

~~(7)~~(6) to be a conservator for any minor, incapacitated person or trustee for any convict under the appointment of any court of competent jurisdiction;

~~(8) if the trust company was organized and existing prior to 1930, to loan money upon real estate, chattel, collateral or personal security, to execute and issue its notes, bonds or debentures payable at a future date, and to pledge any of its securities not in excess of 105% of the amount of such notes, bonds or debentures thus issued, except that no holder of securities in excess of the amount provided herein shall acquire any title or claim to such excess, to buy and sell all kinds of government, state, county, municipal and corporation bonds, and all kinds of negotiable and nonnegotiable paper, securities, and stocks except that:~~

~~(A) The total investment of any such trust company in bank stock shall at no time exceed ¼ its paid-in capital, and~~

~~(B) no trust company shall loan money upon or become the purchaser of its own stock, unless such purchase shall be necessary in the collection of, or to prevent loss upon, a debt previously contracted in good faith, whereupon the trust company may become the purchaser at public or private sale, but any stock so purchased shall be disposed of within six months after such purchase and shall not be included as a part of the assets of such company after the expiration of six months from the date of purchase;~~

~~(9)~~(7) to receive money in trust for investment in real or personal property of every kind and nature and to reinvest the proceeds thereof;

~~(10)~~(8) to act in any fiduciary capacity and to perform any act as a fiduciary which a Kansas state bank may perform under any provision of the banking or insurance laws of this state, including, without limitation, acting as a successor fiduciary to any bank upon liquidation of its trust department through the transfer of its fiduciary assets pursuant to K.S.A.

9-1604, and amendments thereto, which liquidation may be effected in the manner provided in K.S.A. 9-2107, and amendments thereto, or otherwise;

~~(11)~~(9) to act as either an originating trustee or as a contracting trustee pursuant to K.S.A. 9-2107, and amendments thereto;

~~(12)~~(10) to exercise any other power expressly conferred upon trust companies by any other provision of the laws of this state;

~~(13)~~(11) to buy and sell foreign or domestic exchange, gold, silver, coin or bullion; and

(12) *to perform or purchase trust services for, or from, a bank or service corporation through a trust service agency agreement, provided that the commissioner is notified 30 days after contracting for the service and such notification includes the trust services provided, the name of the servicer and the date the service will commence.*

~~(14)~~(b) Pursuant to K.S.A. 9-1713, and amendments thereto, the ~~state bank~~ commissioner may adopt rules and regulations clarifying any of the above enumerated powers and duties extended to trust companies.

~~(b)~~(c) A trust company may be formed for a limited purpose to exercise any one or more of the enumerated powers in subsection (a). The articles of incorporation of such a trust company shall contain a list of the specific powers that the trust company chooses and is authorized to exercise.

Sec. 145. K.S.A. 9-2104 is hereby amended to read as follows: 9-2104. (a) No executor, administrator, conservator or trustee holding trust company stock, ~~and no~~ shall be personally subject to any liability as stockholders in such trust company.

(b) No person holding trust company stock as collateral security shall be personally subject to any liability as stockholders in such trust company, ~~but~~

(c) *The person owning the stock or the person pledging such stock shall be considered as holding same, and shall be deemed the person liable as a stockholder accordingly in the trust company.*

(d) Any executor, administrator, conservator or trustee holding trust company stock shall be liable in like manner as the testator or intestate or the conservatee or person interested in such trust fund would have been if such person had been living and competent to act and hold the same stock in such person's own name in the normal course of acting and carrying out the fiduciary duties of an executor, administrator, conservator or trustee.

(e) (1) *Any executor, administrator, conservator or trustee holding shares of stock may vote as a shareholder.*

(2) *Any person who has pledged such person's stock as collateral security may represent the same at all meetings and may vote accordingly as a shareholder.*

Sec. 146. K.S.A. 2014 Supp. 9-2107 is hereby amended to read as follows: 9-2107. (a) As used in this section:

(1) “Contracting trustee” means any trust company, as defined in K.S.A. 9-701, and amendments thereto, any bank that has been granted trust authority by the ~~state bank~~ commissioner under K.S.A. 9-1602, and amendments thereto, ~~or~~ any national bank chartered to do business in Kansas that has been granted trust authority by the comptroller of the currency under 12 U.S.C. § 92a, ~~or~~ any bank that has been granted trust authority or any trust company, regardless of where such bank or trust company is located, ~~and which~~ *that* is controlled, as defined in K.S.A. 9-1612, and amendments thereto, by the same bank holding company as any trust company, state bank or national bank chartered to do business in Kansas, which accepts or succeeds to any fiduciary responsibility as provided in this section;

(2) “originating trustee” means any trust company, bank, national banking association, savings and loan association or savings bank which has trust powers and its principal place of business is in this state and which places or transfers any fiduciary responsibility to a contracting trustee as provided in this section;

(3) “financial institution” means any bank, national banking association, savings and loan association or savings bank which has its principal place of business in this state but which does not have trust powers.

(b) Any contracting trustee and any originating trustee may enter into an agreement by which the contracting trustee, without any further authorization of any kind, succeeds to and is substituted for the originating trustee as to all fiduciary powers, rights, duties, privileges and liabilities with respect to all accounts for which the originating trustee serves in any fiduciary capacity, except as may be provided otherwise in the agreement. Notwithstanding the provisions of this section, no contracting trustee ~~as defined in K.S.A. 9-2107(a)(1), and amendments thereto,~~ having its home office outside the state of Kansas shall enter into an agreement except with an originating trustee which is commonly controlled as defined in K.S.A. 9-1612, and amendments thereto, by the same bank holding company.

(c) Unless the agreement expressly provides otherwise, upon the effective date of the substitution:

(1) The contracting trustee shall be deemed to be named as the fiduciary in all writings, including, without limitation, trust agreements, wills and court orders, which pertain to the affected fiduciary accounts;

(2) the originating trustee is absolved from all fiduciary duties and obligations arising under such writings and shall discontinue the exercise of any fiduciary duties with respect to such writings, except that the originating trustee is not absolved or discharged from any duty to account required by K.S.A. 59-1709, and amendments thereto, or any other applicable statute, rule of law, rules and regulations or court order, nor shall

the originating trustee be absolved from any breach of fiduciary duty or obligation occurring prior to the effective date of the agreement.

(d) The agreement may authorize the contracting trustee:

(1) To establish a trust service desk at any office of the originating trustee at which the contracting trustee may conduct any trust business and any business incidental thereto and which the contracting trustee may otherwise conduct at its principal place of business; and

(2) to engage the originating trustee as the agent of the contracting trustee, on a disclosed basis to customers, for the purposes of providing administrative, advertising and safekeeping services incident to the fiduciary services provided by the contracting trustee.

(e) Any contracting trustee may enter into an agreement with a financial institution providing that the contracting trustee may establish a trust service desk as authorized by subsection (d) in the offices of such financial institution and which provides such financial institution, on a disclosed basis to customers, may act as the agent of contracting trustee for purposes of providing administrative services and advertising incident to the fiduciary services to be performed by the contracting trustee.

(f) No activity authorized by subsections (b) through (e) shall be conducted by any contracting trustee, originating trustee or financial institution until an application for such authority has been submitted to and approved by the commissioner. The application shall be in the form and contain the information required by the commissioner, which shall at a minimum include certified copies of the following documents:

(1) The agreement;

(2) the written action taken by the board of directors of the originating trustee or financial institution approving the agreement;

(3) all other required regulatory approvals;

(4) ~~an affidavit of publication of notice of intent to file the application with the commissioner~~ *proof of publication of notice that the applicant intends to file or has filed an application pursuant to this section. Publication of the notice shall be on the same day for two consecutive weeks in the official newspaper of the city or county general circulation in the county where the principal office of the originating trustee or financial institution is located. The notice shall be in the form prescribed by the commissioner and shall contain the name of the applicant contracting trustee; and the originating trustee or financial institution, the proposed date of filing of the application with the commissioner; a solicitation for written comments concerning the application, and a notice of the public's right to file a written request for a public hearing for the purpose of presenting oral or written evidence regarding the proposed agreement. All comments and requests for public hearing shall be filed with the commissioner on or before the 30th day after the date the application is filed. The notice shall be published on the*

*same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication; and*

(5) a certification by the parties to the agreement that written notice of the proposed substitution was sent by first-class mail to each cofiduciary, each surviving settlor of a trust, each ward of a guardianship, each person who has sole or shared power to remove the originating trustee as fiduciary and each adult beneficiary currently receiving or entitled to receive a distribution of principle or income from a fiduciary account affected by the agreement, and that such notice was sent to each such person's address as shown in the originating trustee's records. An unintentional failure to give such notice shall not impair the validity or effect of any such agreement, except an intentional failure to give such notice shall render the agreement null and void as to the party not receiving the notice of substitution.

(g) A contracting trustee making application to the commissioner for approval of any agreement pursuant to this section shall pay to the commissioner a fee, in an amount established ~~by rules and regulations of the commissioner adopted pursuant to K.S.A. 9-1713 section 12, and amendments thereto,~~ to defray the expenses of the commissioner or designee in the examination and investigation of the application. The commissioner shall remit all ~~amounts~~ *moneys* received under this section 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 separate account in the state treasury for each application~~ *the bank investigation fund*. ~~The money moneys in each such account the bank investigation fund shall be used to pay the expenses of the commissioner, or designee, in the examination and investigation of the application to which it relates such applications and any unused balance shall be transferred to the bank commissioner fee fund.~~

(h) Upon the filing of ~~any such a complete~~ application with the commissioner, the commissioner shall make or cause to be made, a careful examination and investigation ~~concerning of the proposed agreement. If the commissioner finds any of the following matters unfavorably, the commissioner may deny the application:~~

(1) The reasonable probability of usefulness and success of the contracting trustee; *and*

(2) the financial history and condition of the contracting trustee including the character, qualifications and experience of the officers employed by the contracting trustee; ~~and~~

~~(3) whether the contracting agreement will result in any undue injury to properly conducted existing banks, national banks and trust companies.~~

~~If the commissioner shall determine any of such matters unfavorably to the applicants, the application shall be disapproved, but if not, then the application shall be approved.~~

(i) ~~If no written request for public hearing is filed, The commissioner shall render approval or disapproval of the application within 60 90 days of the date upon which the application was filed receiving a complete application.~~

(j) ~~If a written request for public hearing is filed, the commissioner shall hold within 30 days of the close of the comment period, a public hearing in a location determined by the commissioner. Notice of the time, date and place of such hearing shall be published by the applicant in a newspaper of general circulation in the county where the originating trustee or financial institution is located, not less than 10 nor more than 30 days prior to the date of the hearing, and an affidavit of publication shall be filed with the commissioner. At any such hearing, all interested persons may present written and oral evidence to the commissioner in support of or in opposition to the application. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner. Within 14 days after the public hearing, the commissioner shall approve or disapprove the application after consideration of the application and evidence gathered during the commissioner's investigation.~~

(k) ~~The commissioner may extend the period for approval or disapproval if the commissioner determines that any information required by this section has not been furnished, any material information submitted is inaccurate or additional investigation is required. The commissioner, prior to expiration of the application period provided for by this section, shall give written notice to each party to the agreement of the commissioner's intent to extend the period which shall include a specific date for expiration of the extension period. If any information remains incomplete or inaccurate upon the expiration of the extension period the application shall be disapproved.~~

(l) ~~Within 15 days of the date of the commissioner's approval or denial, the applicant or any individual or corporation who filed a request for and presented evidence at the public hearing shall have the right to appeal in writing to the state banking board the commissioner's determination by filing a notice of appeal with the commissioner. The state banking board shall fix a date for hearing, which hearing shall be held within 45 days after such notice of appeal is filed. The board shall conduct the hearing in accordance with the provisions of the Kansas administrative procedure act and render its decision affirming or rescinding the determination of the commissioner. Any action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act. Any party which files an appeal to the state banking board of the commissioner's determination shall pay to the commissioner a fee in an amount established by rules and regulations of the commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, to defray the board's expenses associated with the conduct of the appeal Upon service of an~~

*order denying an application, the applicant shall have the right to a hearing to be conducted in accordance with the Kansas administrative procedure act before the state banking board. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.*

~~(m)(k)~~ When the commissioner determines that any contracting trustee domiciled in this state has entered into a contracting agreement in violation of the laws governing the operation of such contracting trustee, the commissioner shall give written notice to the contracting trustee and the originating trustee or financial institution of such determination. Within 15 days after receipt of such notification, the contracting trustee and originating trustee or financial institution shall have the right to appeal in writing to the state banking board the commissioner's determination. The board shall fix a date for hearing, which shall be held within 45 days after the date of the appeal and shall be conducted in accordance with the Kansas administrative procedure act. At such hearing the board shall hear all matters relevant to the commissioner's determination and shall approve or disapprove the commissioner's determination. The decision of the board shall be final and conclusive. If the contracting trustee does not appeal to the board from the commissioner's determination or if an appeal is made and the commissioner's determination is upheld by the board, the commissioner may proceed as provided in K.S.A. 9-1714, and amendments thereto, until such time as the commissioner determines the contracting trustee, originating trustee and financial institution are in full compliance with the laws governing the operation of a contracting trustee and originating trustee or financial institution *may take such action as available under K.S.A. 9-1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to remedy such violation.*

~~(n)(l)~~ Any party entitled to receive a notice under subsection (f)(5) may file a petition in the court having jurisdiction over the fiduciary relationship, or if none, in the district court in the county where the originating trustee has its principal office, seeking to remove any contracting trustee substituted or about to be substituted as fiduciary pursuant to this section. Unless the contracting trustee files a written consent to its removal or a written declination to act subsequent to the filing of the petition, the court, upon notice and hearing, shall determine the best interest of the petitioner and all other parties concerned and shall fashion such relief as it deems appropriate in the circumstances, including the awarding of reasonable attorney fees. The right to file a petition under this subsection shall be in addition to any other rights to remove fiduciary provided by any other statute or regulation or by the writing creating the fiduciary relationship. If the removal of the fiduciary is prompted solely as a result of the contracting agreement, any reasonable cost associated with such removal and transfer, ~~not to exceed \$200 per account,~~ shall be

paid by the originating trustee or financial institution entering into the agreement.

Sec. 147. K.S.A. 2014 Supp. 9-2108 is hereby amended to read as follows: 9-2108. It is unlawful for any trust company to establish or operate a trust service office or relocate an existing trust service office except as provided ~~in this act~~ *herein*.

(a) As used in this section: “Trust service office” means any office, agency or other place of business located within this state, other than the place of business specified in the trust company’s certificate of authority, at which the powers granted to trust companies under K.S.A. 9-2103, and amendments thereto, are exercised. For the purposes of this section, any activity in compliance with K.S.A. 9-2107, and amendments thereto, does not constitute a trust service office.

(b) After first applying for and obtaining the approval of the commissioner under this section, one or more trust service offices may be established or operated in any city within this state by a trust company incorporated under the laws of this state.

(c) An application to establish or operate a trust service office or to relocate an existing trust service office shall be in ~~such~~ *the* form and ~~contain such information as required~~ *manner prescribed* by the commissioner and ~~shall include certified copies of~~ *provide* the following documents:

(1) ~~The~~ *A certified copy of the* written action taken by the board of directors of the trust company approving the establishment or operation of the proposed trust service office or the proposed relocation of the trust service office;

(2) all other required regulatory approvals; ~~and~~

(3) ~~an affidavit of publication of notice of intent to file an application to establish or operate a trust service office or relocate an existing trust service office~~ *proof of publication of notice that the applicant intends to file or has filed an application pursuant to this section. Publication of the notice shall be on the same day for two consecutive weeks in the official newspaper of the city of general circulation where the proposed trust service office is to be located. The notice shall be in the form prescribed by the commissioner and shall contain the name of the applicant, the location of the proposed trust service office, the proposed date of filing of the application with the commissioner; and a solicitation for written comments concerning the application and a notice of the public’s right to file a written request for a public hearing for the purpose of presenting oral or written evidence regarding the proposed trust service office. All comments and requests for public hearing shall be filed with the commissioner on or before the 30th day after the date the application is filed. The notice shall be published on the same day for*

*two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication; and*

*(4) the application shall include the name selected for the proposed trust service office. The name selected for the proposed trust service office shall not be the name of any other trust company or trust service office doing business in the state of Kansas, nor shall the name selected be required to contain the name of the applicant trust company. If the name selected for the proposed trust service office does not contain the name of the applicant trust company, the trust service office shall provide in the public lobby of such trust service office, a public notice that it is a trust service office of the applicant trust company. Any trust company may request exemption from the commissioner from the provisions of this subsection.*

(d) A trust company making application to the commissioner for approval of a trust service office under this section shall pay to the commissioner a fee, in an amount established by rules and regulations of the commissioner, adopted pursuant to K.S.A. 9-1713 section 12, and amendments thereto, to defray the expenses of the commissioner or designee in the examination and investigation of the application. The commissioner shall remit all ~~amounts~~ *moneys* received under this section 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 separate account in the state treasury for each application~~ *the bank investigation fund*. The moneys in ~~each such account~~ *the bank investigation fund* shall be used to pay the expenses of the commissioner or designee in the examination and investigation of ~~the application to which it relates~~ *such applications* and any unused balance shall be transferred to the bank commissioner fee fund.

(e) Upon ~~the filing of any such~~ *a complete* application with the commissioner, the commissioner shall make or cause to be made, a careful examination and investigation ~~concerning~~. *If the commissioner finds any of the following matters unfavorably, the commissioner may deny the application:*

(1) The reasonable probability of usefulness and success of the proposed trust service office; *and*

(2) the applicant trust company's financial history and condition including the character, qualifications and experience of the officers employed by the trust company; *and*

~~(3) whether the proposed trust service office can be established without undue injury to properly conducted existing banks, national banking associations and trust companies. If the commissioner determines any of such matters unfavorably to the applicants, the application shall be disapproved, but if not, the application shall be approved.~~

(f) ~~If no written request for public hearing is filed, the commissioner~~

shall render approval or disapproval of the application within 60 days of the date upon which the application was filed.

(g) If a written request for public hearing is filed, the commissioner shall hold a public hearing in a location determined by the commissioner within 30 days of the close of the comment period. Notice of the time, date and place of the hearing shall be published by the applicant in a newspaper of general circulation in the county where the proposed trust service office is to be located, not less than 10 or more than 30 days prior to the date of the hearing, and an affidavit of publication shall be filed with the commissioner. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the commissioner in support of or in opposition to the application. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner. Within 14 days after the public hearing, the commissioner shall approve or disapprove the application after consideration of the application and evidence gathered during the commissioner's investigation.

(h) The commissioner may extend the period for approval or disapproval if the commissioner determines that any information required by this section has not been furnished, any material information submitted is inaccurate or additional investigation is required. The commissioner, prior to expiration of the application period as provided in this section, shall give written notice to the applicant of the commissioner's intent to extend the period and such notice shall include a specific date for expiration of the extension period. If any information remains incomplete or inaccurate upon the expiration of the extension period the application shall be disapproved.

(i) Within 15 days of the date after the commissioner's approval or disapproval of the application, the applicant or any individual or corporation who filed a request for and presented evidence at the public hearing shall have the right to appeal in writing to the state banking board the commissioner's determination, by filing a notice of appeal with the commissioner. The state banking board shall fix a date for a hearing, which hearing shall be held within 45 days from the date such notice of appeal is filed. The board shall conduct the hearing in accordance with the provisions of the Kansas administrative procedure act and render its decision affirming or rescinding the determination of the commissioner. Action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act. Any party which files an appeal to the state banking board of the commissioner's determination shall pay to the commissioner a fee in an amount established by rules and regulations of the commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, to defray the board's expenses associated with the conduct of the appeal. *Upon service of an order denying an application, the applicant shall have the right to a hearing to be conducted in accord-*

*ance with the Kansas administrative procedure act before the state banking board. Any final order of the state banking board pursuant to this section is subject to review in accordance with the Kansas judicial review act.*

~~(j)(g)~~ When the commissioner determines that a trust company domiciled in this state has established or is operating a trust service office in violation of the laws governing the operation of such trust company, the commissioner ~~shall give written notice to the trust company of such determination. Within 15 days after receipt of such notification, the trust company may appeal in writing to the state banking board the commissioner's determination. The board shall fix a date for hearing, which hearing shall be held within 45 days from the date of such appeal and shall be conducted in accordance with the provisions of the Kansas administrative procedure act. At such hearing the board shall hear all matters relevant to the commissioner's determination and shall approve or disapprove the commissioner's determination, and the decision of the board shall be final and conclusive. If the trust company does not appeal to the state banking board from the commissioner's determination or if an appeal is made and the commissioner's determination is upheld by the board, the commissioner may proceed as provided in K.S.A. 9-1714, and amendments thereto, until such time as the commissioner determines the trust company is in full compliance with the laws governing the operation of a trust service office may take such action as available under K.S.A. 9-1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to remedy such violation.~~

Sec. 148. K.S.A. 2014 Supp. 9-2111 is hereby amended to read as follows: 9-2111. (a) Except as provided in K.S.A. 9-2107, and amendments thereto, no trust company, trust department of a bank, corporation or other business entity, the home office of which is located outside the state of Kansas, shall establish or operate a trust facility within the state of Kansas, unless the laws of the state where the home office of the non-resident trust company, trust department of a bank, corporation or other business entity is located; reciprocally authorize a Kansas chartered trust company, trust department of a bank, corporation or other business entity to establish or operate a trust facility within that state.

(b) Before any nonresident trust company, trust department of a bank, corporation or other business entity establishes a trust facility in Kansas, a copy of the application submitted to the home state, and proof that the home state has reciprocity with Kansas, must be filed by the applicant with the commissioner.

(c) No Kansas trust company shall establish an out-of-state trust facility until an application has been filed with the commissioner and approval has been received. An application filed pursuant to this section

shall be subject to the provisions in K.S.A. 9-2108, and amendments thereto.

(d) No Kansas bank with a trust department shall establish an out-of-state trust facility until an application has been filed with the commissioner and approval has been received. An application filed pursuant to this section shall be subject to the provisions in ~~K.S.A. 9-1135~~ 9-1111, and amendments thereto.

(e) As used in this section, “trust facility” means any office, agency, desk or other place of business; at which trust business is conducted.

(f) *Any Kansas trust company or Kansas bank making application to the commissioner pursuant to subsection (c) or (d) shall pay to the commissioner a fee to be established pursuant to section 12, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all moneys received under this section 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 bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.*

Sec. 149. K.S.A. 2014 Supp. 44-314 is hereby amended to read as follows: 44-314. (a) Every employer shall pay all wages due to the employees of the employer at least once during each calendar month, on regular paydays designated in advance by the employer.

(b) The employer may designate the method by which employees receive wages, provided all wages shall be paid by one or more of the following methods:

- (1) In lawful money of the United States;
- (2) by check or draft which is negotiable in the community wherein the place of employment is located;
- (3) by electronic fund transfer or deposit to an automated clearing-house member financial institution account designated by the employee; or
- (4) by payroll card.

(c) Any employer that elects to pay wages only by a method authorized in subsection (b)(3) shall offer an alternative payment method as a default option for employees that fail to designate a financial institution account for electronic fund transfer or deposit.

(d) Any employer that elects to pay wages using a payroll card as authorized in subsection (b)(4) shall allow employees at least one means of fund access withdrawal per pay period at no cost to the employee for

an amount up to and including the total amount of the employee's net wages, as stated on the employee's earnings statement.

(e) Not less than 30 days prior to implementing a payroll program using only the methods authorized in subsection (b)(3) or (b)(4), an employer shall either:

(1) Conduct one or more employee forums to educate employees regarding the use of a direct deposit or payroll card program offered by the employer; or

(2) distribute educational information to employees about direct deposits or payroll cards as they may be used under the payroll card program offered by the employer.

(f) (1) Employers shall retain no interest in wages paid by electronic funds transferred to an employee's payroll card account, other than the right to correct inadvertent overpayments in accordance with the rules governing direct deposit.

(2) An employer may not charge an employee initiation, loading or other participation fees to receive wages payable in an electronic fund transfer to a payroll card account, with the exception of the cost required to replace a lost, stolen or damaged payroll card.

(g) As used in this section:

(1) "Payroll card" means a card, issued to an employee by an employer, a bank or other entity on behalf of an employer, onto which an employee's net wages are loaded on regular paydays from a payroll card account and made accessible to an employee. ~~A payroll card is a machine readable instrument for purposes of K.S.A. 9-1111d, and amendments thereto.~~

(2) "Payroll card issuer" means an employer, a bank or other entity that issues a payroll card to an employee under an employer payroll card program.

(3) "Payroll card account" means an account into which an employer deposits each participating employee's net wages on regular paydays through an electronic fund transfer.

(h) The end of the pay period for which payment is made on a regular payday shall be not more than 15 days before such regular payday unless a variance in such requirement is authorized by state or federal law.

Sec. 150. K.S.A. 2014 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 assis-

tance 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 ~~sub-section (c) of~~ K.S.A. 16-303(c), 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 guardi-

anship, 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 on 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 en-

forced 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. 2014 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 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 and 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. 2014 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) “Controlled substance analog” means the same as in K.S.A. 2014 Supp. 21-5701, and amendments thereto.

Sec. 151. K.S.A. 9-514, 9-515, 9-516, 9-517, 9-518, 9-519, 9-520, 9-523, 9-536, 9-538, 9-539, 9-542, 9-701, 9-702, 9-703, 9-801, 9-802, 9-803, 9-804, 9-806, 9-807, 9-808, 9-809, 9-810, 9-811, 9-812, 9-813, 9-901a, 9-902, 9-903, 9-904, 9-905, 9-906, 9-907, 9-908, 9-909, 9-910, 9-911, 9-912, 9-1101a, 9-1101b, 9-1102, 9-1103, 9-1105, 9-1106, 9-1107, 9-1108, 9-1109, 9-1110, 9-1111b, 9-1111d, 9-1112, 9-1113, 9-1116, 9-1119, 9-1122, 9-1123, 9-1124, 9-1125, 9-1127a, 9-1127b, 9-1127c, 9-1130, 9-1132, 9-1133, 9-1137, 9-1138, 9-1201, 9-1204, 9-1205, 9-1207, 9-1213, 9-1214, 9-1301, 9-1301a, 9-1304, 9-1403, 9-1405, 9-1501, 9-1502, 9-1503, 9-1504, 9-1505, 9-1506, 9-1507, 9-1602, 9-1603, 9-1604, 9-1605, 9-1606, 9-1607, 9-1608, 9-1609, 9-1610, 9-1611, 9-1612, 9-1701, 9-1705, 9-1708, 9-1709, 9-1710, 9-1711, 9-1712, 9-1714, 9-1715, 9-1716, 9-1717, 9-1718, 9-1719, 9-1720, 9-1723, 9-1724, 9-1802, 9-1803, 9-1807, 9-1808, 9-1901, 9-1902, 9-1902a, 9-1903, 9-1904, 9-1905, 9-1906, 9-1907, 9-1908, 9-1909, 9-1910, 9-1912, 9-1914, 9-1914a, 9-1915, 9-1916, 9-2001, 9-2002, 9-2003, 9-2005, 9-2006, 9-2007, 9-2008, 9-2009, 9-2010, 9-2011, 9-2012, 9-2013, 9-2014, 9-2015, 9-2016, 9-2017, 9-2018, 9-2101, 9-2102, 9-2103, 9-2104 and 9-2105 and K.S.A. 2014 Supp. 9-532, 9-533, 9-534, 9-535, 9-805, 9-1101, 9-1104, 9-1111, 9-1114, 9-1118, 9-1135, 9-1139, 9-1140, 9-1215, 9-1216, 9-1303, 9-1401, 9-1402, 9-1407, 9-1408, 9-1601, 9-1702, 9-1703, 9-1704, 9-1706, 9-1707, 9-1713, 9-1721, 9-1722, 9-1801, 9-1804, 9-1805, 9-2004, 9-2106, 9-2107, 9-2108, 9-2111, 39-709 and 44-314 are hereby repealed.

Sec. 152. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 15, 2015.

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## CHAPTER 39

SENATE BILL No. 228  
(Amended by Chapter 100)

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; revenue bonds to finance a portion of unfunded actuarial liability of KPERS; requirements and procedures; employer contribution rates; amending K.S.A. 2014 Supp. 74-4914d and 74-4920 and repealing the existing sections.

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

New Section 1. (a) For the purpose of financing a portion of the unfunded actuarial pension liability of the Kansas public employees retirement system, the Kansas development finance authority is hereby authorized to issue one or more series of revenue bonds under the Kansas development finance authority act in an amount necessary to provide a deposit or deposits to the Kansas public employees retirement system in a total amount not to exceed \$1,000,000,000 plus all amounts required to pay the costs of issuance of the bonds, including any credit enhancement, interest costs and to provide any required reserves for the bonds. No bonds shall be issued until such issuance has been approved by a resolution of the state finance council. The principal amount, interest rates and final maturity of such revenue bonds and any bonds issued to refund such bonds or parameters for such principal amount, interest rates and final maturity shall be approved by a resolution of the state finance council, except that, for any one or more series of revenue bonds issued pursuant to this section, such interest rate, all inclusive cost, shall not exceed 5%. The bonds, and interest thereon, issued pursuant to this section shall be payable from moneys appropriated by the state for such purpose. The bonds, and interest thereon, issued pursuant to this section shall be obligations only of the authority and in no event shall such bonds constitute an indebtedness or obligation of the Kansas public employees retirement system or an indebtedness or obligation for which the faith and credit or any assets of the system are pledged. Neither the state nor the department of administration shall have the power to pledge the full faith and credit or taxing power of the state for debt service on any bonds issued pursuant to this section, and any payment by the department for such purpose shall be subject to and dependent on appropriations by the legislature. Any obligation of the state or the department for payment of debt service on bonds issued pursuant to this section 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.

(b) As used in this section, “unfunded actuarial pension liability” means the unfunded actuarially accrued liability of the state for the state of Kansas’ and participating employers’, under K.S.A. 74-4931, and amendments thereto, portion of such liability of the Kansas public employees retirement system, determined as of the later of December 31,

2013, or the end of the most recent calendar year for which an actuarial valuation report is available and certified to the Kansas development finance authority by the executive director of the Kansas public employees retirement system.

(c) (1) The authority may pledge the contract or contracts authorized in subsection (d), or any part thereof, for the payment or redemption of the bonds, and covenant as to the use and disposition of moneys available to the authority for payment of the bonds. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section.

(2) The proceeds from the sale of the bonds, other than refunding bonds, issued pursuant to this section, after payment of any costs related to the issuance of such bonds, shall be paid by the authority to the Kansas public employees retirement system to be applied to the payment, in full or in part, of the unfunded accrued pension liability as directed by the Kansas public employees retirement system.

(3) The state hereby pledges and covenants with the holders of any bonds issued pursuant to the provisions of this section that it will not limit or alter the rights or powers vested in the authority by this section, nor limit or alter the rights or powers of the authority, the department of administration or the Kansas public employees retirement system, in any manner which would jeopardize the interest of the holders or any trustee of such holders or inhibit or prevent performance or fulfillment by the authority, the department of administration or the Kansas public employees retirement system with respect to the terms of any agreement made with the holders of the bonds or agreements made pursuant to this section, except that the failure of the legislature to appropriate moneys for any purpose shall not be deemed a violation of this pledge and covenant. The department of administration is hereby specifically authorized to include this pledge and covenant in any agreement with the authority. The authority is hereby specifically authorized to include this pledge and covenant in any bond resolution, trust indenture or agreement for the benefit of holders of the bonds.

(4) Revenue bonds may be issued pursuant to this section without obtaining the consent of any department, division, commission, board or agency of the state, other than the approvals of the state finance council required by this section, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by the Kansas development finance authority act.

(d) The department of administration and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in this section. The contract or contracts shall provide for payment of the amounts required to be paid pursuant to this section and shall set forth the procedure for the transfer of moneys

for the purpose of paying such moneys. The contract or contracts shall contain such terms and conditions, including principal amount, interest rates and final maturity, as shall be approved by resolution of the state finance council and shall include, but not be limited to, terms and conditions necessary or desirable to provide for repayment of and to secure any bonds of the authority issued pursuant to this section.

(e) The approvals by the state finance council required by subsections (a) and (d) are hereby characterized as matters of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto. Such approvals may be given by the state finance council when the legislature is in session.

Sec. 2. K.S.A. 2014 Supp. 74-4914d is hereby amended to read as follows: 74-4914d. Any additional cost resulting from the normal retirement date and retirement before such normal retirement date for security officers as provided in K.S.A. 74-4914c, and amendments thereto, and disability benefits as provided in K.S.A. 74-4914e, and amendments thereto, shall be added to the employer rate of contribution for the department of corrections as otherwise determined under K.S.A. 74-4920, and amendments thereto, except that the employer rate of contribution for the department of corrections including any such additional cost added to such employer rate of contribution pursuant to this section shall in no event exceed the employer rate of contribution for the department of corrections for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which security officers contribute during the period: (a) For the fiscal year commencing in calendar years 2010 through 2012, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; (b) for the fiscal year commencing in calendar year 2013, an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (c) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (d) for the fiscal year commencing in calendar year 2015, *the employer rate of contribution shall be 10.91%, except that if bonds issued pursuant to section 1, and amendments thereto, have debt service payments that are fully or partially financed through the use of capitalized interest, or have capitalized interest-only debt service payments, the employer rate of contribution shall be an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year;* ~~and~~ (e) for the fiscal year commencing in calendar year 2016, *the employer rate of contribution shall be 10.81%, except that if bonds issued pursuant to section 1, and amendments thereto, have debt service payments that are fully or partially financed through the use of capitalized interest, or have capitalized interest-only debt service payments, the employer rate of contribution shall be an amount not to exceed more than*

*1.2% of the amount of the immediately preceding fiscal year; and (f) in each subsequent calendar year, an amount not to exceed more than 1.2% of the amount of the immediately preceding fiscal year. As used in this section, "capitalized interest" means interest payments on the bonds that are pre-funded or financed from bond proceeds as part of the issue for a specified period of time in order to offset one or more initial debt service payments.*

Sec. 3. K.S.A. 2014 Supp. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation and appraisal as provided for in ~~subsection (3)(a) of K.S.A. 74-4908(3)(a)~~, and amendments thereto, the board shall certify, on or before July 15 of each year, to the division of the budget in the case of the state and to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the system, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability as determined by the board. The board shall determine the actuarial cost method to be used in annual actuarial valuations, to determine the employer contribution rates that shall be certified by the board. Such certified rate of contribution, amortization methods and periods and actuarial cost method shall be based on the standards set forth in ~~subsection (3)(a) of K.S.A. 74-4908(3)(a)~~, and amendments thereto, and shall not be based on any other purpose outside of the needs of the system.

(b) (i) For employers affiliating on and after January 1, 1999, upon the basis of an annual actuarial valuation and appraisal of the system conducted in the manner provided for in K.S.A. 74-4908, and amendments thereto, the board shall certify, on or before July 15 of each year to each such employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such employer to pay all of the liabilities which shall accrue under the system from and after the entry date as determined by the board, upon recommendation of the actuary. Such rate shall be termed the employer's participating service contribution and shall be uniform for all participating employers. Such additional liability shall be amortized as determined by the board. For all participating employers described in this section, the board shall determine the actuarial cost method to be used in annual actuarial valuations to determine the employer contribution rates that shall be certified by the board.

(ii) The board shall determine for each such employer separately an amount sufficient to amortize all liabilities for prior service costs which shall have accrued at the time of entry into the system. On the basis of such determination the board shall annually certify to each such employer separately an actuarially determined estimate of the rate of contribution

which shall be required to be paid by that employer to pay all of the liabilities for such prior service costs. Such rate shall be termed the employer's prior service contribution.

(2) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services the sum required to satisfy the state's obligation under this act as certified by the board and shall present the same to the legislature for allowance and appropriation.

(3) Each other participating employer shall appropriate and pay to the system a sum sufficient to satisfy the obligation under this act as certified by the board.

(4) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which such contribution is made is paid from or from any other funds available to it for such purpose. Each political subdivision, other than an instrumentality of the state, which is by law authorized to levy taxes for other purposes, may levy annually at the time of its levy of taxes, a tax which may be in addition to all other taxes authorized by law for the purpose of making its contributions under this act and, in the case of cities and counties, to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, which tax, together with any other fund available, shall be sufficient to enable it to make such contribution. In lieu of levying the tax authorized in this subsection, any taxing subdivision may pay such costs from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102, and amendments thereto. Each participating employer which is not by law authorized to levy taxes as described above, but which prepares a budget for its expenses for the ensuing year and presents the same to a governing body which is authorized by law to levy taxes as described above, may include in its budget an amount sufficient to make its contributions under this act which may be in addition to all other taxes authorized by law. Such governing body to which the budget is submitted for approval, may levy a tax sufficient to allow the participating employer to make its contributions under this act, which tax, together with any other fund available, shall be sufficient to enable the participating employer to make the contributions required by this act.

(5) (a) The rate of contribution certified to a participating employer as provided in this section shall apply during the fiscal year of the participating employer which begins in the second calendar year following the year of the actuarial valuation.

(b) (i) Except as specifically provided in this section, for fiscal years commencing in calendar year 1996 and in each subsequent calendar year, the rate of contribution certified to the state of Kansas shall in no event exceed the state's contribution rate for the immediately preceding fiscal

year by more than 0.2% of the amount of compensation upon which members contribute during the period.

(ii) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to the state of Kansas and to the participating employers under K.S.A. 74-4931, and amendments thereto, shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar years 2010 through 2012, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2013, an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (C) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (D) for the fiscal year commencing in calendar year 2015, *the employer rate of contribution shall be 10.91%, except that if bonds issued pursuant to section 1, and amendments thereto, have debt service payments that are fully or partially financed through the use of capitalized interest, or have capitalized interest-only debt service payments, the employer rate of contribution shall be an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year;*~~and~~ (E) for the fiscal year commencing in calendar year 2016, *the employer rate of contribution shall be 10.81%, except that if bonds issued pursuant to section 1, and amendments thereto, have debt service payments that are fully or partially financed through the use of capitalized interest, or have capitalized interest-only debt service payments, the employer rate of contribution shall be an amount not to exceed more than 1.2% of the amount of the immediately preceding fiscal year;* and (F) in each subsequent calendar year, an amount not to exceed more than 1.2% of the amount of the immediately preceding fiscal year. *As used in this subsection, "capitalized interest" means interest payments on the bonds that are pre-funded or financed from bond proceeds as part of the issue for a specified period of time in order to offset one or more initial debt service payments.*

(iii) Except as specifically provided in this section, for fiscal years commencing in calendar year 1997 and in each subsequent calendar year, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed such participating employer's contribution rate for the immediately preceding fiscal year by more than 0.15% of the amount of compensation upon which members contribute during the period.

(iv) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to participating employers other than the state of Kansas shall

in no event exceed the contribution rate for such employers for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar years 2010 through 2013, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (C) for the fiscal year commencing in calendar year 2015, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (D) for the fiscal year commencing in calendar year 2016, an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year; and (E) for the fiscal year commencing in calendar year 2017, and in each subsequent calendar year, an amount not to exceed more than 1.2% of the amount of the immediately preceding fiscal year.

(v) As part of the annual actuarial valuation, there shall be a separate employer rate of contribution calculated for the state of Kansas, a separate employer rate of contribution calculated for participating employers under K.S.A. 74-4931, and amendments thereto, a combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, and a separate employer rate of contribution calculated for all other participating employers.

(vi) There shall be a combined employer rate of contribution certified to the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto. There shall be a separate employer rate of contribution certified to all other participating employers.

(vii) If the combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, is greater than the separate employer rate of contribution for the state of Kansas, the difference in the two rates applied to the actual payroll of the state of Kansas for the applicable fiscal year shall be calculated. This amount shall be certified by the board for deposit as additional employer contributions to the retirement benefit accumulation reserve for the participating employers under K.S.A. 74-4931, and amendments thereto.

(6) The actuarial cost of any legislation enacted in the 1994 session of the Kansas legislature will be included in the June 30, 1994, actuarial valuation in determining contribution rates for participating employers.

(7) The actuarial cost of the provisions of K.S.A. 74-4950i, and amendments thereto, will be included in the June 30, 1998, actuarial valuation in determining contribution rates for participating employers. The actuarial accrued liability incurred for the provisions of K.S.A. 74-4950i, and amendments thereto, shall be amortized over 15 years.

(8) Except as otherwise provided by law, the actuarial cost of any

legislation enacted by the Kansas legislature, except the actuarial cost of K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the employer contribution rates certified for the employer contribution rate in the fiscal year immediately following such enactment. Such actuarial cost shall be determined by the qualified actuary employed or retained by the system pursuant to K.S.A. 74-4908, and amendments thereto, and reported to the system and the joint committee on pensions, investments and benefits.

(9) Notwithstanding the provisions of subsection (8), the actuarial cost of the provisions of K.S.A. 74-49,109 et seq., and amendments thereto, shall be first reflected in employer contribution rates effective with the first day of the first payroll period for the fiscal year 2005. The actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109 et seq., and amendments thereto, shall be amortized over 10 years.

(10) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2014 Supp. 74-49,114b, and amendments thereto, for retirants other than local retirants as described in subsection (11) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2007.

(11) The actuarial accrued liability incurred for the provisions of K.S.A. 2014 Supp. 74-49,114b, and amendments thereto, for the KPERS local group and retirants who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(12) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2014 Supp. 74-49,114c, and amendments thereto, for retirants other than local retirants as described in subsection (13) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2008.

(13) The actuarial accrued liability incurred for the provisions of K.S.A. 2014 Supp. 74-49,114c, and amendments thereto, for the KPERS local group and retirants who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(14) The board with the advice of the actuary may fix the contribution rates for participating employers joining the system after one year from the first entry date or for employers who exercise the option contained in K.S.A. 74-4912, and amendments thereto, at rates different from the rate fixed for employers joining within one year of the first entry date.

(15) Employer contributions shall in no way be limited by any other act which now or in the future establishes or limits the compensation of any member.

(16) Notwithstanding any provision of law to the contrary, each participating employer shall remit quarterly, or as the board may otherwise provide, all employee deductions and required employer contributions to

the executive director for credit to the Kansas public employees retirement fund within three days after the end of the period covered by the remittance by electronic funds transfer. Remittances of such deductions and contributions received after such date are delinquent. Delinquent payments due under this subsection shall be subject to interest at the rate established for interest on judgments under ~~subsection (a) of K.S.A. 16-204(a)~~, and amendments thereto. At the request of the board, delinquent payments which are due or interest owed on such payments, or both, may be deducted from any other moneys payable to such employer by any department or agency of the state.

Sec. 4. K.S.A. 2014 Supp. 74-4914d and 74-4920 are hereby repealed.

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

Approved April 15, 2015.

Published in the *Kansas Register* April 23, 2015.

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## CHAPTER 40

### SENATE BILL No. 127

AN ACT concerning roads and bridges; relating to commemorative signage; requiring the secretary of transportation to collect sufficient funds prior to installation; designating the 2nd Lieutenant Justin L Sisson memorial highway, the George Ablah expressway, the Kenneth W Bernard memorial highway and the Bert Cantwell memorial interchange; certain bridge inspections; amending K.S.A. 68-1034 and K.S.A. 2014 Supp. 68-10,106 and repealing the existing sections; also repealing K.S.A. 68-1111.

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

New Section 1. On and after July 1, 2015, the secretary of transportation shall not place any signs commemoratively designating any highway, bridge, interchange or trail 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 United States highway 69 from the junction of United States highway 69 and 135th street in Johnson county, then south on United States highway 69 to the junction of United States highway 69 and 167th street is hereby designated as the 2nd Lieutenant Justin L Sisson 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 2nd Lieutenant Justin L Sisson 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 K-96 highway from the junction with interstate highway 135 then east to the junction with Rock Road in Sedgwick county is hereby designated as the George Ablah expressway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the George Ablah expressway, 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. 2014 Supp. 68-10,106 is hereby amended to read as follows: 68-10,106. The portion of K-96 highway from the junction with ~~interstate highway 135~~ Rock Road in Sedgwick county 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. 5. That portion of K-7 highway from the southern city limits of the city of Lansing then north on K-7 highway to the northern city limits of the city of Lansing is hereby designated as the Kenneth W Bernard 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 Kenneth W Bernard 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.

Sec. 6. K.S.A. 68-1034 is hereby amended to read as follows: 68-1034. From the junction of United States highway 24 and United States highway 40 with United States highway 73 and highway K-7, United States high-

way 73 and highway K-7 north to the southern city limits of Lansing, then north from the northern city limits of Lansing to the eastern junction with United States highway 59 in the city of Atchison, United States highway 73 west to the junction with United States highway 159, is hereby designated as the Amelia Earhart 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 Amelia Earhart memorial 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. 7. The junction of interstate highway 70 and 110th street in Wyandotte county is hereby designated as the Bert Cantwell 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 70 and 110th street is the Bert Cantwell 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. 8. K.S.A. 68-1034 and 68-1111 and K.S.A. 2014 Supp. 68-10,106 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 15, 2015.

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## CHAPTER 41

Senate Substitute for HOUSE BILL No. 2101

AN ACT concerning retirement and pensions; relating to the Kansas police and firemen's retirement system; defining eligible employees as police; providing retroactive application; amending K.S.A. 2014 Supp. 74-4952 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 74-4952 is hereby amended to read as follows: 74-4952. As used in K.S.A. 74-4951 et seq., and amendments thereto:

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which shall be credited to the member's account with interest allowed thereon after June 30, 1982.

(2) “Disability” means the total inability to perform permanently the duties of the position of a policeman or fireman.

(3) “Eligible employer” means any city, county, township or other political subdivision of the state employing one or more employees as firemen or policemen.

(4) “Employee” means any policeman or fireman employed by a participating employer whose employment for police or fireman purposes is not seasonal or temporary and requires at least 1,000 hours of work per year.

(5) “Entry date” means the date as of which an eligible employer joins the system; the first entry date pursuant to this act is January 1, 1967.

(6) “Final average salary” means:

(a) For members who are first hired as an employee, as defined in subsection (4), before July 1, 1993, the average highest annual compensation paid to a member for any three of the last five years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three years, then the average annual compensation paid to the member during the full period of participating service, or if a member has less than one calendar year of participating service, then the member’s final average salary shall be computed by multiplying the member’s highest monthly salary received in that year by 12;

(b) for members who are first hired as an employee, as defined in subsection (4), on and after July 1, 1993, the average highest annual salary, as defined in ~~subsection (33) of K.S.A. 74-4902(33)~~, and amendments thereto, paid to a member for any three of the last five years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three years, then the average annual salary, as defined in ~~subsection (34) of K.S.A. 74-4902(33)~~, and amendments thereto, paid to the member during the full period of participating service, or if a member has less than one calendar year of participating service, then the member’s final average salary shall be computed by multiplying the member’s highest monthly salary received in that year by 12;

(c) for purposes of subparagraphs (a) and (b) of this subsection, the date that such member is first hired as an employee for members who are employees of employers that elected to participate in the system on or after January 1, 1994, shall be the date that such employee’s employer elected to participate in the system; and

(d) for any application to purchase or repurchase service credit for a certain period of service as provided by law received by the system after May 17, 1994, for any member who will have contributions deducted from such member’s compensation at a percentage rate equal to two or three times the employee’s rate of contribution or who will have contributions

deducted from such member's compensation at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919, and amendments thereto, or will begin paying to the system a lump-sum amount for such member's purchase or repurchase, and such deductions or lump-sum payment commences after the commencement of the first payroll period in the third quarter, "final average salary" shall not include any amount of compensation or salary which is based on such member's purchase or repurchase. Any application to purchase or repurchase multiple periods of service shall be treated as multiple applications.

(e) Notwithstanding any other provision of this section, for purposes of applying limits as provided by the federal internal revenue code, salary shall have the meaning as determined pursuant to K.S.A. 74-49,123, and amendments thereto.

(7) "Retirement benefit" means a monthly income or the actuarial equivalent thereof paid in such manner as specified by the member as provided under the system or as otherwise allowed to be paid at the discretion of the board, with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs. Upon proper identification such surviving spouse may negotiate the warrant issued in the name of the retiree.

(8) "Normal retirement date" means the date on or after which a member may retire with eligibility for retirement benefits for age and service as provided in ~~subsections (1) and (3) of K.S.A. 74-4957(1) and (3),~~ and amendments thereto.

(9) "Retirement system" or "system" means the Kansas police and firemen's retirement system as established by this act and as it may be hereafter amended.

(10) "Service-connected" means with regard to a death or any physical or mental disability, any such death or disability resulting from external force, violence or disease occasioned by an act of duty as a policeman or fireman and, for any member after five years of credited service, there shall be a rebuttable presumption, that any death or disability resulting from a heart disease or disease of the lung or respiratory tract or cancer as provided in this subsection, except that in the event that the member ceases to be a contributing member by reason of a service-connected disability for a period of six months or more and then again becomes a contributing member, the provision relating to death or disability resulting from a heart disease, disease of the lung or respiratory tract or cancer as provided in this subsection shall not apply until such member has again become a contributing member for a period of not less than two years or unless clear and precise evidence is presented that the heart disease, disease of the lung or respiratory tract or cancer as provided in this subsection was in fact occasioned by an act of duty as a policeman or

fireman. If the retirement system receives evidence to the contrary of such presumption, the burden of proof shall be on the member or other party to present evidence that such death or disability was service-connected. The provisions of this section relating to the presumption that the death or disability resulting from cancer is service-connected shall only apply if the condition that caused the death or disability is a type of cancer which may, in general, result from exposure to heat, radiation or a known carcinogen.

(11) Prior to July 1, 1998, "fireman" or "firemen" means an employee assigned to the fire department and engaged in the fighting and extinguishment of fires and the protection of life and property therefrom or in support thereof and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such. On and after July 1, 1998, "fireman" or "firemen" means an employee assigned to the fire department whose principal duties are engagement in the fighting and extinguishment of fires and the protection of life and property therefrom and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such.

(12) Prior to July 1, 1998, "police," "policeman" or "policemen" means an employee assigned to the police department and engaged in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies, or in support thereof and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such. On and after July 1, 1998, "police," "policeman" or "policemen" means an employee assigned to the police department whose principal duties are engagement in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies; who has successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center and is certified pursuant to the provisions of K.S.A. 74-5607a, and amendments thereto; and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such. ~~Notwithstanding any other provisions of this subsection, "police," "policeman" or "policemen" shall include a city or county correctional officer who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such commencing on July 1, 1998, and ending on June 30, 1999.~~ "Police," "policeman" or "policemen" who have been assigned to the police department, whose duties have included engagement in the enforcement of law and maintenance of order within

*the state and its political subdivisions, who have been certified pursuant to K.S.A. 74-5607a, and amendments thereto, who have been designated as “police,” “policeman” or “policemen” as provided in this subsection and for whom required contributions have been made to the Kansas police and firemen’s retirement system shall not be denied benefits due to a temporary or full-time assignment to a jail, adult detention center or other correctional facility by the state or any of its political subdivisions, and this provision shall be applied retroactively to July 1, 1999, to any member meeting such requirements as provided in this enactment.*

(13) Except as otherwise defined in this act, words and phrases used in K.S.A. 74-4951 et seq., and amendments thereto, shall have the same meanings ascribed to them as are defined in K.S.A. 74-4902, and amendments thereto.

Sec. 2. K.S.A. 2014 Supp. 74-4952 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 15, 2015.

Published in the *Kansas Register* April 23, 2015.

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## CHAPTER 42

Senate Substitute for HOUSE BILL No. 2258  
(Amended by Chapters 98 and 100)

AN ACT concerning social welfare; Kansas department for children and families; eligibility requirements for assistance; amending K.S.A. 17-2263, 17-5828, 39-709b, 59-1301 and 59-3504 and K.S.A. 2014 Supp. 9-1215, 9-1216, 16-311, 17-2264, 17-5829, 39-702, 39-709, 39-709c, 39-753, 39-756a, 59-2222, 59-2247, 59-2801 and 59-3086 and repealing the existing sections; also repealing K.S.A. 39-7,101, 39-7,106, 39-7,107, 39-7,110 and 75-5364 and K.S.A. 2014 Supp. 39-7,102, 39-7,103, 39-7,104, 39-7,105, 39-7,108, 39-7,109 and 39-7,122.

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

Section 1. K.S.A. 2014 Supp. 9-1215 is hereby amended to read as follows: 9-1215. Subject to the provisions of this section and K.S.A. 9-1216, and amendments thereto, an individual adult or minor, hereafter referred to as the owner, may enter into a written contract with any bank located in this state providing that the balance of the owner’s deposit account, or the balance of the owner’s legal share of a deposit account, at the time of death of the owner shall be made payable on the death of the owner to one or more persons or, if the persons predecease the owner, to another person or persons, hereafter referred to as the beneficiary or beneficiaries. If any beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A.

59-3053, and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.

Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated, *and amendments thereto*.

Every contract authorized by this section shall be considered to contain a right on the part of the owner during the owner's lifetime both to withdraw funds on deposit in the account in the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the designation of beneficiary. The interest of the beneficiary shall be considered not to vest until the death of the owner and, if there is a claim pursuant to ~~subsection (g)~~ of K.S.A. 39-709, and amendments thereto, until such claim is satisfied.

No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the bank and delivered to the bank prior to the death of the owner.

For the purposes of this section, the balance of the owner's deposit account or the balance of the owner's legal share of a deposit account shall not be construed to include any portion of the account which under the law of joint tenancy is the property of another joint tenant of the account upon the death of the owner.

As used in this section, "person" means any individual, individual or corporate fiduciary or nonprofit religious or charitable organization as defined by K.S.A. 79-4701, and amendments thereto.

Sec. 2. K.S.A. 2014 Supp. 9-1216 is hereby amended to read as follows: 9-1216. When the owner and the bank have entered into a contract authorized in K.S.A. 9-1215, and amendments thereto, the owner's deposit account subject to the contract or any part of or interest on the account shall be paid by the bank to the owner or pursuant to the owner's order during the owner's lifetime. On the owner's death, the deposit account or any part of or interest on the account shall be paid by the bank to the secretary for children and families for a claim pursuant to ~~subsection (g)~~ of K.S.A. 39-709, and amendments thereto, or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the bank shall pay the moneys or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the bank for the payment.

Sec. 3. K.S.A. 2014 Supp. 16-311 is hereby amended to read as follows: 16-311. (a) Whenever a person, who is or has been a recipient of medical assistance from the Kansas department for children and families,

enters into a prearranged funeral agreement, contract or plan pursuant to K.S.A. 16-301, and amendments thereto, or a prearranged funeral agreement, contract or plan funded by insurance proceeds, such person shall inform the secretary for children and families or the secretary's designee of the existence of such an agreement, contract or plan and shall inform the funeral establishment that such person is or has been a recipient of medical assistance.

(b) If any balance remains after payment for the final disposition of a dead human body, or for funeral or burial services, or funeral or burial merchandise, and the purchaser of the agreement, contract, or plan is or has been a recipient of medical assistance or a deceased surviving spouse of a recipient of medical assistance, any remaining balance shall be paid according to K.S.A. 16-304, and amendments thereto, or if such agreement, contract or plan was funded by insurance, any remaining balance shall be paid by the insurance company or the person, association, partnership, firm or corporation providing the services or merchandise to the secretary for children and families or the secretary's designee, to the extent of medical assistance expended on the deceased recipient. The insurance company or the person, association, partnership, firm or corporation providing the services or merchandise shall not be liable to the Kansas department for children and families for the balance in the account if written notice has not been received stating that medical assistance has been expended on the recipient for which the Kansas department for children and families may have a claim, and the balance of the account has been paid to the estate of the deceased or in the case of insurance, the designated beneficiary.

(c) Payments to the secretary for children and families under subsection (b) and K.S.A. 16-304, and amendments thereto, shall be governed by ~~subsection (g)(2) of~~ K.S.A. 39-709, and amendments thereto.

Sec. 4. K.S.A. 17-2263 is hereby amended to read as follows: 17-2263. Subject to the provisions of this section and K.S.A. 17-2264, and amendments thereto, an individual adult or minor, hereafter referred to as the shareholder, may enter into a written contract with any credit union located in this state providing that the balance of the shareholder's account, or the balance of the shareholder's legal share of an account, at the time of death of the shareholder shall be made payable on the death of the shareholder to one or more persons or, if the persons predecease the owner, to another person or persons, hereafter referred to as the beneficiary or beneficiaries. If any beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.

Transfers pursuant to this section shall not be considered testamentary

or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated, *and amendments thereto*.

Every contract authorized by this section shall be considered to contain a right on the part of the shareholder during the shareholder's lifetime both to withdraw funds on deposit in the account in the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the designation of beneficiary. The interest of the beneficiary shall be considered not to vest until the death of the shareholder and, if there is a claim pursuant to ~~subsection (g) of~~ K.S.A. 39-709, and amendments thereto, until such claim is satisfied.

No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the credit union and delivered to the credit union prior to the death of the shareholder.

For the purposes of this section, the balance of the shareholder's account or the balance of the shareholder's legal share of an account shall not be construed to include any portion of the account which under the law of joint tenancy is the property of another joint tenant of the account upon the death of the owner.

As used in this section, "person" means any individual, individual or corporate fiduciary or nonprofit religious or charitable organization as defined by K.S.A. 79-4701, and amendments thereto.

Sec. 5. K.S.A. 2014 Supp. 17-2264 is hereby amended to read as follows: 17-2264. When the shareholder and the credit union have entered into a contract authorized in K.S.A. 17-2263, and amendments thereto, the shareholder's account subject to the contract or any part of or interest on the account shall be paid by the credit union to the shareholder or pursuant to the shareholder's order during the shareholder's lifetime. On the shareholder's death, the deposit account or any part of or interest on the account shall be paid by the credit union to the secretary for children and families for a claim pursuant to ~~subsection (g) of~~ K.S.A. 39-709, and amendments thereto, or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the credit union shall pay the moneys or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the credit union for the payment.

Sec. 6. K.S.A. 17-5828 is hereby amended to read as follows: 17-5828. Subject to the provisions of this section and K.S.A. 17-5829, and amendments thereto, an individual adult or minor, hereafter referred to as the owner, may enter into a written contract with any savings and loan association located in this state providing that the balance of the owner's

deposit account, or the balance of the owner's legal share of a deposit account, at the time of death of the owner shall be made payable on the death of the owner to one or more persons or, if the persons predecease the owner, to another person or persons, hereafter referred to as the beneficiary or beneficiaries. If any beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.

Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated, *and amendments thereto*.

Every contract authorized by this section shall be considered to contain a right on the part of the owner during the owner's lifetime both to withdraw funds on deposit in the account in the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the designation of beneficiary. The interest of the beneficiary shall be considered not to vest until the death of the owner and, if there is a claim pursuant to ~~subsection (g)~~ of K.S.A. 39-709, and amendments thereto, until such claim is satisfied.

No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the savings and loan association and delivered to the savings and loan association prior to the death of the owner.

For the purposes of this section, the balance of the owner's deposit account or the balance of the owner's legal share of a deposit account shall not be construed to include any portion of the account which under the law of joint tenancy is the property of another joint tenant of the account upon the death of the owner.

As used in this section, "person" means any individual, individual or corporate fiduciary or nonprofit religious or charitable organization as defined by K.S.A. 79-4701, and amendments thereto.

Sec. 7. K.S.A. 2014 Supp. 17-5829 is hereby amended to read as follows: 17-5829. When the owner and the savings and loan association have entered into a contract authorized in K.S.A. 17-5828, and amendments thereto, the owner's deposit account subject to the contract or any part of or interest on the account shall be paid by the savings and loan association to the owner or pursuant to the owner's order during the owner's lifetime. On the owner's death, the deposit account or any part of or interest on the account may be paid by the savings and loan association to the secretary for children and families for a claim pursuant to ~~subsection (g)~~ of K.S.A. 39-709, and amendments thereto, or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any desig-

nated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the savings and loan association shall pay the monies or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the savings and loan association for the payment.

Sec. 8. K.S.A. 2014 Supp. 39-702 is hereby amended to read as follows: 39-702. The following words and phrases when used in this act shall, for the purposes of this act, have the meanings respectively ascribed to them in this section:

(a) “Secretary” means the secretary for children and families, unless otherwise specified.

(b) “Applicants” means all persons who, as individuals, or in whose behalf requests are made of the secretary for aid or assistance.

(c) “Social welfare service” may include such functions as giving assistance, the prevention of public dependency, and promoting the rehabilitation of dependent persons or those who are approaching public dependency.

(d) “Assistance” includes such items or functions as the giving or providing of money, food stamps or coupons assistance, food, clothing, shelter, medicine or other materials, the giving of any service, including instructive or scientific, and the providing of institutional care, which may be necessary or helpful to the recipient in providing the necessities of life for the recipient and the recipient’s dependents. The definitions of social welfare service and assistance in this section shall be deemed as partially descriptive and not limiting.

(e) ~~“Aid to families with dependent children”~~ *Temporary assistance to needy families* means financial assistance with respect to or on behalf of a dependent child or dependent children and includes financial assistance for any month to meet the needs of the relative *or qualifying caretaker* with whom any dependent child is living.

(f) “Medical assistance” means the payment of all or part of the cost of necessary: (1) Medical, remedial, rehabilitative or preventive care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act and furnished by health care providers who have a current approved provider agreement with the secretary; and (2) transportation to obtain care and services which are within the scope of services to be provided under a medical care plan developed by the secretary pursuant to this act.

(g) “Dependent children” means needy children under the age of 18, or who are under the age of 19 and are full-time students in secondary schools or the equivalent educational program ~~or are full-time students in a program of vocational or technical training if they may be reasonably~~

expected to complete the training before attaining age 19, who have been deprived of parental or guardian support or care by reasons of the death, continued absence from the home, or physical or mental incapacity who are in the care of a biological or adoptive parent or, court appointed guardian, conservator or legal custodian and who are living with any blood relative, including those of the half blood, and including first cousins, uncles, aunts, and persons of preceding generations are denoted by prefixes of grand, great, or great-great, and including the spouses or former spouses of any persons named in the above groups, in a place of residence maintained by one or more of such relatives as their own home. The secretary may adopt rules and regulations which extend the deprivation requirement under this definition to include being deprived of parental or guardian support or care by reason of the unemployment of a parent or guardian. The term "dependent children" also includes children who would meet the foregoing requirements except for their removal from the home of a relative as a result of judicial determination to the effect that continuation therein would be contrary to the welfare of such children, for whose placement and care the secretary is responsible, who have been placed in a foster family home or child care institution as a result of such determination and who received aid to dependent children in or for the month in which court proceedings leading to such determination were initiated, or would have received such aid in or for such month if application had been made therefor, or in the case of a child who had been living with a relative specified above within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month such child had been living with and removed from the home of such a relative and application had been made therefor.

(h) "The blind" means not only those who are totally and permanently devoid of vision, but also those persons whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential.

(i) "General assistance" means financial assistance in which the cost of such financial assistance is not participated in by the federal government. General assistance may be limited to transitional assistance in some instances as specified by rules and regulations adopted by the secretary.

(j) "Recipient" means a person who has received assistance under the terms of this act.

(k) "Intake office" means the place where the secretary shall maintain an office for receiving applications.

(l) "Adequate consideration" means consideration equal, or reasonably proportioned to the value of that for which it is given.

(m) "Transitional assistance" means a form of general assistance in which as little financial assistance as one payment may be made during

~~each period of 12 consecutive calendar months to an eligible and needy person and all other persons for whom such person is legally responsible.~~

~~(n)-(l)~~ (l) “Title IV-D” means part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.), as in effect on May 1, 1997.

(m) “TANF diversion assistance” means a one-time voluntary payment option in lieu of ongoing TANF assistance. The diversion payment is available to applicants who have not received TANF assistance as an adult, and is designed to meet a crisis or emergency hardship that would endanger such applicants’ ability to remain employed or to accept an offer of employment. Any household that includes such recipient accepting the diversion payment is ineligible to receive on-going TANF assistance for 12 months after receipt of the diversion payment. Any recipient who receives a diversion payment is limited to 42 months of TANF cash assistance in a lifetime, unless such recipient shall meet a hardship criteria as defined by the secretary.

(n) “Non-cooperation” means the failure of the applicant or recipient to comply with all requirements provided in state and federal law, rules and regulations and agency policy.

Sec. 9. K.S.A. 2014 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 or *cohabiting partners* 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, *cohabiting partner* 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 temporary assistance for needy families~~, 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 boat, personal water craft, recreational vehicle, recreational off-highway vehicle or all-terrain vehicle, as defined by K.S.A. 8-126, and amendments thereto, or*

any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance *except that any additional motor vehicle used by the applicant, the applicant's spouse or the applicant's cohabiting partner for the primary purpose of earning income may be considered as exempt personal property in the secretary's discretion.*

(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. Temporary assistance for needy families. 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 temporary assistance for needy families. On and after January 1, 2017, the department shall conduct an electronic check for any false information provided on an application for TANF and other benefits programs administered by the department. Where the husband and wife or cohabiting partners are living together, both shall register for work under the program requirements for temporary assistance for needy families in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.~~

(1) As used in this subsection, "family group" or "household" means the applicant or recipient for TANF, child care subsidy or employment services and all individuals living together in which there is a relationship of legal responsibility or a qualifying caretaker relationship. This will include a cohabiting boyfriend or girlfriend living with the person legally responsible for the child. The family group shall not be eligible for TANF if the family group contains at least one adult member who has received TANF, including the federal TANF assistance received in any other state, for 36 calendar months beginning on and after October 1, 1996, unless the secretary determines a hardship exists and grants an extension allowing receipt of TANF until the 48-month limit is reached. No extension beyond 48 months shall be granted. Hardship provisions for a recipient include:

(A) Is a caretaker of a disabled family member living in the household;

(B) *has a disability which precludes employment on a long-term basis or requires substantial rehabilitation;*

(C) *needs a time limit extension to overcome the effects of domestic violence/sexual assault;*

(D) *is involved with prevention and protection services (PPS) and has an open social service plan; or*

(E) *is determined by the 36th month to have an extreme hardship other than what is designated in criteria listed in subparagraphs (A) through (E). This determination will be made by the executive review team.*

(2) *All adults applying for TANF shall be required to complete a work program assessment as specified by the Kansas department for children and families, including those who have been disqualified for or denied TANF due to non-cooperation, drug testing requirements or fraud. Adults who are not otherwise eligible for TANF, such as ineligible aliens, relative/non-relative caretakers and adults receiving supplemental security income are not required to complete the assessment process. During the application processing period, applicants must complete at least one module or its equivalent of the work program assessment to be considered eligible for TANF benefits, unless good cause is found to be exempt from the requirements. Good cause exemptions shall only include:*

(A) *The applicant can document an existing certification verifying completion of the work program assessment;*

(B) *the applicant has a valid offer of employment or is employed a minimum of 20 hours a week;*

(C) *the applicant is a parenting teen without a GED or high school diploma;*

(D) *the applicant is enrolled in job corps;*

(E) *the applicant is working with a refugee social services agency; or*

(F) *the applicant has completed the work program assessment within the last 12 months.*

(3) *The department for children and families shall maintain a sufficient level of dedicated work program staff to enable the agency to conduct work program case management services to TANF recipients in a timely manner and in full accordance with state law and agency policy.*

(4) *TANF mandatory work program applicants and recipients shall participate in work components that lead to competitive, integrated employment. Components are defined by the federal government as being either primary or secondary. In order to meet federal work participation requirements, households need to meet at least 30 hours of participation per week, at least 20 hours of which need to be primary and at least 10 hours may be secondary components in one parent households where the youngest child is six years of age or older. Participation hours shall be 55 hours in two parent households (35 hours per week if child care is not used). The maximum assignment is 40 hours per week per individual. For*

*two parent families to meet the federal work participation rate both parents must participate in a combined total of 55 hours per week, 50 hours of which must be in primary components, or one or both parents could be assigned a combined total of 35 hours per week (30 hours of which must be primary components) if department for children and families paid child care is not received by the family. Single parent families with a child under age six meet the federal participation requirement if the parent is engaged in work or work activities for at least 20 hours per week in a primary work component. The following components meet federal definitions of primary hours of participation: Full or part-time employment, apprenticeship, work study, self-employment, job corps, subsidized employment, work experience sites, on-the-job training, supervised community service, vocational education, job search and job readiness. Secondary components include: Job skills training, education directly related to employment such as adult basic education and English as a second language, and completion of a high school diploma or GED.*

*(5) A parent or other adult caretaker personally providing care for a child under the age of three months in their TANF household is exempt from work participation activities until the month the child turns three months of age. Such three-month limitation shall not apply to a parent or other adult caretaker who is personally providing care for a child born significantly premature, with serious medical conditions or with a disability as defined by the secretary, in consultation with the secretary of health and environment, and adopted in the rules and regulations. The three-month period is defined as two consecutive months starting with the month after childbirth. The exemption for caring for a child under three months cannot be claimed:*

*(A) By either parent when two parents are in the home and the household meets the two-parent definition for federal reporting purposes;*

*(B) by one parent or caretaker when the other parent or caretaker is in the home, and available, capable and suitable to provide care and the household does not meet the two-parent definition for federal reporting purposes;*

*(C) by a person age 19 or younger when such person is pregnant or a parent of a child in the home and the person does not possess a high school diploma or its equivalent. Such person shall become exempt the month such person turns age 20;*

*(D) by any adult in the TANF assistance plan when at least one adult has reached the 36 months of TANF cash assistance; or*

*(E) by any person assigned to a work participation activity for substance use disorders.*

*(6) TANF work experience placements shall be reviewed after 90 days and are limited to six months per 48-month lifetime limit. A client's progress shall be reviewed prior to each new placement regardless of the length of time they are at the work experience site.*

(7) *TANF participants with disabilities shall engage in required employment activities to the maximum extent consistent with their abilities. TANF participants shall provide current documentation by a qualified medical practitioner that details the abilities to engage in employment and any limitations in work activities along with the expected duration of such limitations. Disability is defined as a physical or mental impairment constituting or resulting in a substantial impediment to employment for such individual.*

(8) *Non-cooperation is the failure of the applicant or recipient to comply with all requirements provided in state and federal law, federal and state rules and regulations and agency policy. The period of ineligibility for TANF benefits based on non-cooperation with work programs shall be as follows:*

(A) *For a first penalty, three months and full cooperation with work program activities;*

(B) *for a second penalty, six months and full cooperation with work program activities;*

(C) *for a third penalty, one year and full cooperation with work program activities; and*

(D) *for a fourth or subsequent penalty, 10 years.*

(9) *Individuals that have not cooperated with TANF work programs shall be ineligible to participate in the food assistance program. The comparable penalty shall be applied to only the individual in the food assistance program who failed to comply with the TANF work requirement. The agency shall impose the same penalty to the member of the household who failed to comply with TANF requirements. The penalty periods are three months, six months, one year, or 10 years.*

(10) *Non-cooperation is the failure of the applicant or recipient to comply with all requirements provided in state and federal law, federal and state rules and regulations and agency policy. The period of ineligibility for child care subsidy or TANF benefits based on parents' non-cooperation with child support services shall be as follows:*

(A) *For the first penalty, three months and cooperation with child support services prior to regaining eligibility;*

(B) *for a second penalty, six months and cooperation with child support services prior to regaining eligibility;*

(C) *for a third penalty, one year and cooperation with child support services prior to regaining eligibility; and*

(D) *for a fourth penalty, 10 years.*

(11) *Individuals that have not cooperated without good cause with child support services shall be ineligible to participate in the food assistance program. The period of disqualification ends once it has been determined that such individual is cooperating with child support services.*

(12) *Any individual who is found to have committed fraud or is found guilty of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2014*

*Supp. 21-5801, and amendments thereto, in either the TANF or child care program shall render all adults in the family unit ineligible for TANF assistance. Adults in the household who were determined to have committed fraud or were convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2014 Supp. 21-5801, and amendments thereto, shall render themselves and all adult household members ineligible for their lifetime for TANF, even if fraud was committed in only one program. Households who have been determined to have committed fraud or were convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2014 Supp. 21-5801, and amendments thereto, shall be required to name a protective payee as approved by the secretary or the secretary's designee to administer TANF benefits or food assistance on behalf of the children. No adult in a household may have access to the TANF cash assistance benefit.*

*(13) (A) Food assistance shall not be provided to any person convicted of a felony offense occurring on or after July 1, 2015, which includes as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog. For food assistance, the individual shall be permanently disqualified if they have been convicted of a state or federal felony offense occurring on or after July 1, 2015, involving possession or use of a controlled substance or controlled substance analog.*

*(B) Notwithstanding the provisions of subparagraph (A), an individual shall be eligible for food assistance if the individual enrolls in and participates in a drug treatment program approved by the secretary, submits to and passes a drug test and agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.*

*An individual's failure to submit to testing or failure to successfully pass a drug test shall result in ineligibility for food assistance until a drug test is successfully passed. Failure to successfully complete a drug treatment program shall result in ineligibility for food assistance until a drug treatment plan approved by the secretary is successfully completed, the individual passes a drug test and agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.*

*(C) The provisions of subparagraph (B) shall not apply to any individual who has been convicted for a second or subsequent felony offense as provided in subparagraph (A).*

*(14) No TANF cash assistance shall be used to purchase alcohol, cigarettes, tobacco products, lottery tickets, concert tickets, professional or collegiate sporting event tickets or tickets for other entertainment events intended for the general public or sexually oriented adult materials. No TANF cash assistance shall be used in any retail liquor store, casino, gaming establishment, jewelry store, tattoo parlor, massage parlor, body piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store, vapor cigarette store, psychic or fortune telling business, bail bond com-*

pany, video arcade, movie theater, swimming pool, cruise ship, theme park, dog or horse racing facility, parimutuel facility, or sexually oriented business or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, or in any business or retail establishment where minors under age 18 are not permitted. TANF cash assistance transactions for cash withdrawals from automated teller machines shall be limited to \$25, per transaction and to one transaction per day. No TANF cash assistance shall be used for purchases at points of sale outside the state of Kansas.

(15) (A) The secretary for children and families shall place a photograph of the recipient, if agreed to by such recipient of public assistance, on any Kansas benefits card issued by the Kansas department for children and families that the recipient uses in obtaining food, cash or any other services. When a recipient of public assistance is a minor or otherwise incapacitated individual, a parent or legal guardian of such recipient may have a photograph of such parent or legal guardian placed on the card.

(B) Any Kansas benefits card with a photograph of a recipient shall be valid for voting purposes as a public assistance identification card in accordance with the provisions of K.S.A. 25-2908, and amendments thereto.

(C) As used in this paragraph and its subparagraphs, "Kansas benefits card" means any card issued to provide food assistance, cash assistance or child care assistance, including, but not limited to, the vision card, EBT card and Kansas benefits card.

(16) The secretary for children and families shall adopt rules and regulations:

(A) In determining eligibility for the child care subsidy program, including an income of a cohabiting partner in a child care household; and

(B) in determining and maintaining eligibility for non-TANF child care, requiring that all included adults shall be employed a minimum of 20 hours per week or more as defined by the secretary or meet the following specific qualifying exemptions:

(i) Adults who are not capable of meeting the requirement due to a documented physical or mental condition;

(ii) adults who are former TANF recipients who need child care for employment after their TANF case has closed and earned income is a factor in the closure in the two months immediately following TANF closure;

(iii) adult parents included in a case in which the only child receiving benefits is the child of a minor parent who is working on completion of high school or obtaining a GED; or

(iv) adults who are participants in a mandatory food assistance education and training program.

The department for children and families shall provide child care for the pursuit of any degree or certification if the occupation has at least an

*average job outlook listed in the occupational outlook of the U.S. department of labor, bureau of labor statistics. For occupations with less than an average job outlook, educational plans shall require approval of the secretary or secretary's designee. Child care may also be approved if the student provides verification of a specific job offer that will be available to such student upon completion of the program. Child care for post-secondary education shall be allowed for a lifetime maximum of 24 months per adult. The 24 months may not have to be consecutive. Students shall be engaged in paid employment for a minimum of 15 hours per week. In a two-parent adult household, child care would not be allowed if both parents are adults and attending a formal education or training program at the same time. The household may choose which one of the parents is participating as a post-secondary student. The other parent shall meet another approvable criteria for child care subsidy.*

(17) *The secretary for children and families is prohibited from requesting or implementing a waiver or program from the U.S. department of agriculture for the time limited assistance provisions for able-bodied adults aged 18 through 49 without dependents in a household under the food assistance program. The time on food assistance for able-bodied adults aged 18 through 49 without dependents in the household shall be limited to three months in a 36-month period if such adults are not meeting the requirements imposed by the U.S. department of agriculture that they must work for at least 20 hours per week or participate in a federally approved work program or its equivalent.*

(18) *Eligibility for the food assistance program shall be limited to those individuals who are citizens or who meet qualified non-citizen status as determined by U.S. department of agriculture. Non-citizen individuals who are unable or unwilling to provide qualifying immigrant documentation, as defined by the U.S. department of agriculture, residing within a household shall not be included when determining the household's size for the purposes of assigning a benefit level to the household for food assistance or comparing the household's monthly income with the income eligibility standards. The gross non-exempt earned and unearned income and resources of disqualified individuals shall be counted in its entirety as available to the remaining household members.*

(19) *The secretary for children and families shall not enact the state option from the U.S. department of agriculture for broad-based categorical eligibility for households applying for food assistance according to the provisions of 7 C.F.R. § 273.2(j)(2)(ii).*

(20) *No federal or state funds shall be used for television, radio or billboard advertisements that are designed to promote food assistance benefits and enrollment. No federal or state funding shall be used for any agreements with foreign governments designed to promote food assistance.*

(21) (A) *The secretary for children and families shall not apply gross*

*income standards for food assistance higher than the standards specified in 7 U.S.C. § 2014(c) unless expressly required by federal law. Categorical eligibility exempting households from such gross income standards requirements shall not be granted for any non-cash, in-kind or other benefit unless expressly required by federal law.*

*(B) The secretary for children and families shall not apply resource limits standards for food assistance that are higher than the standards specified in 7 U.S.C. § 2014(g)(1) unless expressly required by federal law. Categorical eligibility exempting households from such resource limits shall not be granted for any non-cash, in-kind or other benefit unless expressly required by federal law.*

*(c) ~~Aid to families with dependent children~~ Temporary assistance for needy families; assignment of support rights and limited power of attorney. By applying for or receiving aid to families with dependent children temporary assistance for needy families 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 temporary assistance for needy families, 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.~~

~~(c) 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 (e) of K.S.A. 16-303(c)~~, 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)~~(e) *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)~~(f) *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 on 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(d), 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)~~ (d) 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)~~ (d) 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)~~ (d) 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~~sub-section (g) paragraph (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~~sub-section (g) paragraph (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)~~(g) *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. 2014 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)~~(h) 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 or violation of a condition of probation or parole imposed under federal or state law 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)~~(i) If the applicant or recipient of ~~aid to families with dependent children~~ temporary assistance for needy families is a mother of the dependent child, as a condition of the mother's eligibility for ~~aid to families with dependent children~~ temporary assistance for needy families 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~~ temporary assistance for needy families who fails to cooperate with requirements relating to child support ~~enforcement~~ services 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)~~(j) By applying for or receiving child care benefits or food ~~stamps~~ assistance, 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~~ 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 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~~ *temporary assistance for needy families*.

~~(4)~~(k) (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 and 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 pos-

itive 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. 2014 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) “Controlled substance analog” means the same as in K.S.A. 2014 Supp. 21-5701, and amendments thereto.

Sec. 10. K.S.A. 39-709b is hereby amended to read as follows: 39-709b. (a) Information concerning applicants for and recipients of assistance from the secretary shall be confidential and privileged and shall only be available to the secretary and the officers and employees of the secretary except as set forth in this section. Unless otherwise prohibited by law, such information shall be disclosed to an applicant, recipient or outside source under the following conditions:

(1) Information shall be disclosed to the post auditor in accordance with and subject to the provisions of ~~subsection (g)~~ of K.S.A. 46-1106(g), and amendments thereto;

(2) information shall be disclosed to an applicant or recipient in accordance with and subject to rules and regulations adopted by the secretary; and

(3) information may be disclosed to an outside source if such disclosure:

(A) Has been consented to in writing by the applicant or recipient and the applicant or recipient has been granted access by the secretary to the information to be disclosed, except that in an emergency information may be disclosed without a written consent if such disclosure is deemed by the secretary to be in the best interests of the applicant or recipient;

(B) is directly connected to the administration of the secretary’s program;

(C) is directly connected to an investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the secretary’s program;

(D) is authorized by a state plan developed by the secretary pursuant to the federal social security act or any other federal program providing federal financial assistance and services in the field of social welfare; or

(E) concerns the intent of an applicant or recipient to commit a crime and in this case such information and the information necessary to prevent the crime shall be disclosed to the appropriate authorities; ~~or.~~

~~(F) concerns information contained in the public list under subsection (c) of this section.~~

(b) Nothing in this section shall be construed to prohibit the publication of *aggregate non-identifying* statistics which are so classified as to prevent the identification of specific applicants or recipients.

~~(c) The secretary shall maintain a public list which shall contain the names and addresses of all recipients receiving general assistance benefits pursuant to this act or any act contained in article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, together with the payment issued to each during the preceding month, except that the names and addresses of children in foster care who are receiving such~~

~~benefits shall be excluded from such public list. On or before the 28th day of each month the secretary shall prepare and retain in the office of the secretary one copy of the public list. The public list retained in the office of the secretary shall be bound in record books provided for that purpose. All such record books and all reports contained in the record books shall be public records and shall be open to public inspection at all times during regular office hours. In addition, there shall be on file in each area or subarea office a copy of that portion of the public list which contains the general assistance recipients in that area and also on file in the office of each county clerk a copy of that portion of the public list which contains the general assistance recipients in that county.~~

~~(d) It shall be unlawful for any person, association, firm, corporation or other agency to disclose, to make use of or to authorize, knowingly permit, participate in or acquiesce in the use of any lists or names or addresses contained in the public list under subsection (c) of this section for commercial or political purposes of any nature or to make use of or disclose confidential information except as provided in this section. Any person, association, firm, corporation or other agency who willfully or knowingly violates any provisions of this section shall be guilty of a class B misdemeanor.~~

Sec. 11. K.S.A. 2014 Supp. 39-709c is hereby amended to read as follows: 39-709c. On or before the first day of each regular session of the legislature, the secretary shall prepare and submit to the president of the senate and the speaker of the house of representatives a report of the total amount of moneys expended by the department for medical assistance, the amount of moneys recovered pursuant to ~~subsection (g) of~~ K.S.A. 39-709, and amendments thereto, and any recommendations for legislation necessary to insure that the factors or methods used to determine eligibility for medical assistance more accurately represent the resources of an applicant for, or recipient of, medical assistance.

Sec. 12. K.S.A. 2014 Supp. 39-753 is hereby amended to read as follows: 39-753. For the purpose of providing title IV-D child support enforcement services, the secretary for children and families shall:

(a) Enter into contracts or agreements necessary to administer title IV-D services.

(b) Maintain and operate a central registry, within the organizational unit of the Kansas department for children and families responsible for providing child support services, for the location of absent parents.

(c) Develop guidelines for coordinating activities of any governmental department, board, commission, bureau or agency in providing information necessary for the location of absent parents.

(d) Coordinate any activity on a state level in searching for an absent parent.

(e) Assist in the location of any parent or other person as required or permitted under title IV-D.

(f) Initiate and maintain legal actions necessary to implement the requirements of title IV-D.

(g) Assist in establishing paternity and in securing and enforcing orders for support in title IV-D cases.

(h) Utilize, in appropriate cases, support enforcement and collection and location services available through the federal department of health and human services, including, but not limited to, the services of federal courts, the federal parent locator services and the treasury department, if authorized or required by federal law.

(i) Accept, on behalf of the state, assignment of support rights pursuant to K.S.A. 39-709 or 39-756, and amendments thereto.

(j) Adopt rules and regulations necessary to provide title IV-D services and to enable the state to meet requirements set forth in title IV-D.

(k) Maintain and operate an automated system to manage title IV-D information and to perform such activities as may be required or permitted by title IV-D. The automated system shall include a registry, to be known as the "state case registry," that contains such records with respect to each title IV-D case as may be required by title IV-D.

(l) *Have authority to settle, negotiate and forgive any debts or liabilities to the agency.*

Sec. 13. K.S.A. 2014 Supp. 39-756a is hereby amended to read as follows: 39-756a. An assignment of support rights pursuant to K.S.A. 39-709, and amendments thereto, shall remain in full force and effect so long as the secretary is providing public assistance in accordance with a plan under which federal moneys are expended on behalf of the applicant, recipient or child for: (a) ~~Aid to families with dependent children, Temporary assistance for needy families;~~ (b) medical assistance; or (c) the expenses of a child in the secretary's care or custody pursuant to K.S.A. 2014 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, or so long as the secretary is providing support-enforcement services pursuant to K.S.A. 39-756, and amendments thereto. Upon discontinuance of all such assistance and support-enforcement services, the assignment shall remain in effect as to unpaid support obligations due and owing at the time of the discontinuance of assistance until the claim of the secretary for repayment of the unreimbursed portion of any assistance is satisfied. If the secretary's claim for reimbursement is only for medical assistance, the assignment shall only remain in effect as to unpaid support obligations due and owing at the time of the discontinuance of medical assistance that are designated as medical support. Nothing herein shall affect or limit the rights of the secretary under an assignment of rights to payment for medical care from a third party pursuant to ~~subsection (g) of~~ K.S.A. 39-709, and amendments thereto.

Sec. 14. K.S.A. 59-1301 is hereby amended to read as follows: 59-1301. If the applicable assets of an estate are insufficient to pay in full all demands allowed against it, payment shall be made in the following classified order:

First class, the expenses of an appropriate funeral in such amount as was reasonably necessary, having due regard to the assets of the estate available for the payment of demands and to the rights of other creditors, and, following the allowance of such expenses, any claim for medical assistance paid under ~~subsection (c) of~~ K.S.A. 39-709, and amendments thereto. Any part of the funeral expenses allowed as a demand against the estate in excess of the sum ascertained as above shall be paid as other demands of the fourth class.

Second class, the appropriate and necessary costs and expenses of administration and the reasonable sums for the appropriate and necessary expenses of the last sickness of decedent, including wages of servants.

Third class, judgments rendered against decedent in the decedent's lifetime, all judgments or liens upon the property of the decedent shall be paid in the order of their priority.

Fourth class, all other demands duly proved, including the cost of any appropriate tombstone or marker or the lettering thereon, in such amount as may be reasonably necessary, but whether there shall be an allowance, and if so the amount thereof, shall be determined by the court before any obligation therefor is incurred, except that debts having preference by the laws of the United States and demands having preference by the laws of this state shall be paid according to such preference.

Except as provided by this section for the first class of demands, no preference shall be given in the payment of any demand over any other demand of the same class, nor shall a demand due and payable be entitled to preference over demands not due.

Sec. 15. K.S.A. 2014 Supp. 59-2222 is hereby amended to read as follows: 59-2222. (a) When a petition is filed for the probate of a will, for the determination that the consent of a spouse to a will is a valid and binding consent, for administration or for refusal to grant letters of administration, the court shall fix the time and place for the hearing thereof. Notice of the hearing shall be given pursuant to K.S.A. 59-2209, and amendments thereto, unless the court makes an order to the contrary. If notice is by order of the court not required to be given pursuant to K.S.A. 59-2209, and amendments thereto, the court shall order notice of the hearing to be given, unless waived, in such manner as the court directs.

(b) When the petition seeks simplified administration, the notice shall advise all persons that under provisions for simplified administration the court need not supervise administration of the estate, and no notice of any action of the executor or administrator or other proceedings in the administration will be given, except for notice of final settlement of de-

cedent's estate. The notice shall further advise all persons that if written objections to simplified administration are filed with the court, the court may order that supervised administration ensue.

(c) When a petition has been filed for the refusal of letters of administration, pursuant to K.S.A. 59-2287, and amendments thereto, the notice given shall advise all persons that at such hearing exempt property and a reasonable allowance will be set aside to the surviving spouse and minor children, or both, and that no further notice of the proceeding will be given.

(d) When the state is a party, the notice shall be served upon the attorney general and the county or district attorney of the county.

(e) If the decedent or a predeceased spouse of the decedent received medical assistance payment under ~~subsection (e) of~~ K.S.A. 39-709, and amendments thereto, or the laws of any other state, the state or states providing such payment or payments shall be entitled to notice. Such notice shall be given to the agency or department responsible for the recovery of medical assistance in Kansas or, if a state other than Kansas, to the attorney general of such state or states.

Sec. 16. K.S.A. 2014 Supp. 59-2247 is hereby amended to read as follows: 59-2247. (a) The petition of an executor or an administrator for a final settlement and accounting, and a determination of the persons entitled to the estate of a decedent, shall, in addition to other requirements, contain:

- (1) A statement of the account;
- (2) the names, residences, and addresses of the heirs, devisees, and legatees;
- (3) a description of the real estate and the interest of the decedent therein at the time of the decedent's death;
- (4) the nature and character of the respective claims of the heirs, devisees, and legatees of the decedent; and
- (5) a statement that neither the decedent nor a predeceased spouse of the decedent were paid medical assistance under ~~subsection (e) of~~ K.S.A. 39-709, and amendments thereto, or the laws of any other state, or, in the event that such assistance was paid for or to the decedent or a predeceased spouse of the decedent under ~~subsection (e) of~~ K.S.A. 39-709, and amendments thereto, or the laws of any other state, that the state making such payments was duly notified of the filing of the petition as required by K.S.A. 59-2222, and amendments thereto.

Notice of the hearing on a petition of an executor or administrator for a final settlement and accounting in which title to real estate is to be assigned by the court shall be given pursuant to K.S.A. 59-2209, and amendments thereto. In all other cases, notice shall be given or waived as provided in K.S.A. 59-2208, and amendments thereto.

Sec. 17. K.S.A. 2014 Supp. 59-2801 is hereby amended to read as

follows: 59-2801. If any otherwise qualified applicant for, or recipient of old age assistance, aid to the blind, aid to the permanently and totally disabled, ~~or general assistance~~ or payee in the case of aid to dependent children, is or shall become unable to manage the assistance payments, or otherwise fails so to manage, to the extent that deprivation or hazard ~~to himself or herself~~ *such applicant or recipient* or others results, or, in the case of aid to dependent children, the payment is not being used for the children, a petition may be filed by the secretary for children and families wherein the applicant or recipient has residence before the district court of that county in the form of a verified written application for the appointment of a personal representative not an employee of the Kansas department for children and families, for the purpose of receiving and managing public assistance payments for any such recipient or payee, which verified application shall allege one or more of the above grounds for the legal appointment of such representative.

Sec. 18. K.S.A. 2014 Supp. 59-3086 is hereby amended to read as follows: 59-3086. (a) At the time of or at any time after the filing of an accounting by the conservator, the conservator may file with the court a verified petition requesting a hearing on that accounting for the purposes of allowance and settlement. The petition shall include:

(1) The conservator's name and address, and if the conservator is also the guardian, that fact;

(2) the conservatee's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the conservatee's permanent residence;

(3) the name and address of the court appointed guardian, if different from the conservator;

(4) the names and addresses of any spouse, adult children and adult grandchildren of the conservatee, and those of any parent and adult siblings of the conservatee, or if no such names or addresses are known to the petitioner, the name and address of at least one adult who is nearest in kinship to the conservatee, or if none, that fact. If no such names or addresses are known to the conservator, but the conservator has reason to believe that such persons exist, then the petition shall state that fact and that the conservator has made diligent inquiry to learn those names and addresses;

(5) the names and addresses of other persons, if any, whom the conservator knows to have an interest in the matter, or a statement that the petitioner knows of no other persons having an interest in the matter;

(6) designation of the accounting period for which allowance and settlement is sought; and

(7) a request that this accounting be accepted and that the court issue an order providing that all matters related thereto are finally allowed and settled.

(b) Upon the filing of such a petition, the court shall issue an order fixing the date, time and place of a hearing on the petition, which hearing may be held forthwith and without further notice if those persons named within the petition pursuant to the requirement of subsections (a)(3), (a)(4) and (a)(5), as applicable, have entered their appearances, waived notice, and agreed to the court's accepting the accounting and issuing an order of final allowance and settlement. Otherwise, the court shall require the conservator to give notice of this hearing to such persons in such manner as the court may specify, including therewith a copy of the conservator's petition and a copy or copies of the accounting or accountings for which the conservator requests an order of final allowance and settlement. This notice shall advise such persons that if they have any objections to the accounting or accountings for which final allowance and settlement is sought that they must file their written objections with the court prior to the scheduled hearing or that they must appear at the hearing to present those objections. The court may appoint an attorney to represent the conservatee in this matter similarly as provided for in ~~subsection (a)(3) of~~ K.S.A. 59-3063(a)(3), and amendments thereto, and in such event, the court shall require the conservator to also give this notice to that attorney.

(c) In the absence of a petition having been filed by the conservator pursuant to this section, the court may set a hearing to determine whether an order of final allowance and settlement should be issued with regard to any accounting which has been previously filed by the conservator, and may require the conservator or some other person to give notice thereof as provided for herein.

(d) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall have the authority to receive all relevant and material evidence which may be offered, including the testimony or written report, findings or recommendations of any professional or other person who has familiarity with the conservatee or the conservatee's estate. The court may review the court's prior orders, any conservatorship plan which has been filed pursuant to K.S.A. 59-3079, and amendments thereto, and any reports and accountings which have been filed by the guardian or conservator, or both, even if previously approved or allowed, to determine whether the current accounting seems reasonable in light of the past reports or accountings, and to determine whether any further proceedings under this act may be appropriate. The court shall give to the conservator, to the conservatee, and to other interested persons, the opportunity to present evidence to the court concerning the actions of the conservator, the conservatee's estate and the recommendations of such persons.

(e) At the conclusion of the hearing, if the court finds, by a preponderance of the evidence, that the accounting accurately accounts for the conservatee's estate, shows appropriate administration on the part of the conservator, that any fees of the conservator are reasonable, and that due

notice and an opportunity to be heard has been provided to any interested parties, the court shall approve the accounting and order that it is allowed and settled. Such allowance and settlement shall relieve the conservator and the conservator's sureties from liability for all acts and omissions which are fully and accurately described in the accounting, including the investments of the assets of the conservatee's estate.

(f) If the court finds by a preponderance of the evidence that the conservator has innocently misused any funds or assets of the conservatee's estate, the court shall order the conservator to repay such funds or return such assets to the conservatee's estate. If the court finds that the conservator has embezzled or converted for the conservator's own personal use any funds or assets of the conservatee's estate, the court shall find the conservator liable for double the value of those funds or assets, as provided for in K.S.A. 59-1704, and amendments thereto. In either case, the court may order the forfeiture of the conservator's bond, or such portion thereof as equals the value of such funds or assets, including any lost earnings and the costs of recovering those funds or assets, including reasonable attorney fees, as the court may allow, and may require of the surety satisfaction thereof. Neither the conservator, nor the conservator's estate or surety, shall be finally released from such bond until the satisfaction thereof.

(g) At no time shall the conservator, or the conservator's estate or surety, be finally released from the bond required by the court pursuant to K.S.A. 59-3069, and amendments thereto, until a final accounting has been filed, allowed and settled as provided for herein.

(h) The court may issue a final order of allowance and settlement upon the filing of a final accounting and a finding by the court that the following have occurred:

(1) Reimbursement to the appropriate agency for any medical assistance payments, if any, received under ~~subsection (c) of~~ K.S.A. 39-709, and amendment thereto, or any similar laws of any other state for or on behalf of a conservatee or a predeceased spouse of the conservatee, but only to the extent allowed by law;

(2) delivery of any remaining funds and assets of the conservatee's estate to the person or persons entitled to such funds or assets; and

(3) presentation to the court of receipts for ~~subsections~~ *paragraphs* (1) and (2).

The conservator, the conservator's estate and the conservator's surety shall be released upon the issuance of the court's final order of allowance and settlement.

Sec. 19. K.S.A. 59-3504 is hereby amended to read as follows: 59-3504. (a) Title to the interest in real estate recorded in transfer-on-death form shall vest in the designated grantee beneficiary or beneficiaries on the death of the record owner.

(b) Grantee beneficiaries of a transfer-on-death deed take the record owner's interest in the real estate at death subject to all conveyances, assignments, contracts, mortgages, liens and security pledges made by the record owner or to which the record owner was subject during the record owner's lifetime including, but not limited to, any executory contract of sale, option to purchase, lease, license, easement, mortgage, deed of trust or lien, claims of the state of Kansas for medical assistance, as defined in K.S.A. 39-702, and amendments thereto, pursuant to ~~subsection (g)(2) of~~ K.S.A. 39-709, and amendments thereto, and to any interest conveyed by the record owner that is less than all of the record owner's interest in the property.

(c) If a grantee beneficiary dies prior to the death of the record owner and an alternative grantee beneficiary has not been designated on the deed, the transfer shall lapse.

Sec. 20. K.S.A. 17-2263, 17-5828, 39-709b, 39-7,101, 39-7,106, 39-7,107, 39-7,110, 59-1301, 59-3504 and 75-5364 and K.S.A. 2014 Supp. 9-1215, 9-1216, 16-311, 17-2264, 17-5829, 39-702, 39-709, 39-709c, 39-753, 39-756a, 39-7,102, 39-7,103, 39-7,104, 39-7,105, 39-7,108, 39-7,109, 39-7,122, 59-2222, 59-2247, 59-2801 and 59-3086 are hereby repealed.

Sec. 21. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2015.

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## CHAPTER 43

House Substitute for SENATE BILL No. 117\*  
(Amended by Chapter 69)

AN ACT regulating traffic; relating to transportation network companies, transportation network company services, regulation.

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

Section 1. This act shall be known and may be cited as the Kansas transportation network company services act.

Sec. 2. Except as otherwise provided, as used in the Kansas transportation network company services act:

(a) "Act" means the Kansas transportation network company services act.

(b) "Digital network" means any online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(c) "Personal vehicle" means a vehicle that is used by a transportation

network company driver in connection with providing a prearranged ride and is:

(1) Owned, leased or otherwise authorized for use by the transportation network company driver; and

(2) not a taxicab, limousine or for-hire vehicle.

(d) “Prearranged ride” means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A “prearranged ride” does not include transportation provided using a taxi, limousine or other for-hire vehicle.

(e) “Transportation network company” or “TNC” means a corporation, partnership, sole proprietorship or other entity that is licensed pursuant to this act and operating in Kansas that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

(f) “Transportation network company driver” or “driver” means an individual who:

(1) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(2) uses a personal vehicle to provide services for riders matched through a digital network controlled by a transportation network company and receives, in exchange for providing the passenger a ride, compensation that exceeds the individual’s cost to provide the ride.

(g) “Transportation network company rider” or “rider” means an individual or persons who use a transportation network company’s digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver’s personal vehicle between points chosen by the rider.

(h) “Vehicle owner” means the owner of a personal vehicle.

Sec. 3. Transportation network companies or drivers shall not be considered motor carriers, private motor carriers or public motor carriers of passengers as those terms are defined in K.S.A. 66-1,108, and amendments thereto, nor determined to provide taxicab or for-hire vehicle service so long as such TNC or driver meets the requirements of this act. In addition, a driver shall not be required to register the personal vehicle such driver uses for prearranged rides as a commercial or for-hire vehicle.

Sec. 4. The TNC must maintain an agent for service of process in the state of Kansas.

Sec. 5. A TNC may charge a fare for the services provided to riders, provided that, if a fare is charged, the TNC shall disclose to riders the fare calculation method on its digital network. The TNC shall also provide riders with the applicable rates being charged and the option to receive an estimated fare before the rider enters the driver's personal vehicle.

Sec. 6. The TNC's digital network shall display a picture of the driver, and the license plate number of the personal vehicle utilized for providing the prearranged ride before the rider enters the driver's vehicle.

Sec. 7. Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the rider that lists:

- (a) The origin and destination of the trip;
- (b) the total time and distance of the trip; and
- (c) an itemization of the total fare paid, if any.

Sec. 8. On January 1, 2016, and thereafter, a transportation network company driver or vehicle owner or transportation network company on the driver's behalf shall maintain primary automobile insurance that:

(a) Recognizes that the driver is a transportation network company driver and covers the driver while the driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a vehicle to transport passengers for compensation.

(b) (1) The following automobile insurance requirements shall apply while a participating transportation network company driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(A) Primary automobile liability insurance in the amount of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage; and

(B) primary automobile liability insurance that meets the minimum coverage requirements where required by K.S.A. 40-284 and 40-3107(f), and amendments thereto.

(2) The coverage requirements of this subsection (b) may be satisfied by any of the following:

(A) Automobile insurance maintained by the transportation network company driver or vehicle owner ;

(B) automobile insurance maintained by the transportation network company; or

(C) any combination of subparagraphs (A) and (B).

(c) (1) The following automobile insurance requirements shall apply while a transportation network company driver is engaged in a prearranged ride:

(A) Primary automobile liability insurance that provides at least \$1,000,000 for death, bodily injury and property damage;

(B) primary automobile liability insurance that meets the minimum coverage requirements where required by K.S.A. 40-284 and 40-3107(f), and amendments thereto.

(2) The coverage requirements of this subsection (c) may be satisfied by any of the following:

(A) Automobile insurance maintained by the transportation network company driver or vehicle owner;

(B) automobile insurance maintained by the transportation network company; or

(C) any combination of subparagraphs (A) and (B).

(d) If insurance maintained by the driver or vehicle owner in subsection (b) or (c) has lapsed or does not provide the required coverage, insurance maintained by a transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim and shall have the duty to defend such claim.

(e) Coverage under an automobile insurance policy maintained by the transportation network company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(f) Insurance required by this section may be placed with an insurer licensed under K.S.A. 40-208 or 40-209, and amendments thereto, or with a surplus lines insurer eligible under K.S.A. 40-246b, and amendments thereto.

(g) Insurance satisfying the requirements of this section shall be deemed to satisfy the financial responsibility requirement for a personal vehicle under the Kansas automobile injury reparations act, K.S.A. 40-3101 et seq., and amendments thereto.

(h) A transportation network company driver shall carry proof of coverage satisfying subsections (b) and (c) with such driver at all times during such driver's use of a vehicle in connection with a transportation network company's digital network. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to the directly interested parties, automobile insurers and investigating police officers, upon request pursuant to K.S.A. 8-173, and amendments thereto. Upon such request, a transportation network company driver shall also disclose to directly interested parties, automobile insurers and investigating police officers, whether such driver was logged on to the transportation network company's digital network or on a prearranged ride at the time of an accident.

Sec. 9. The transportation network company shall disclose in writing to transportation network company drivers the following before they are allowed to accept a request for a prearranged ride on the transportation network company's digital network:

(a) The insurance coverage, including the types of coverage and the

limits for each coverage, that the transportation network company provides while the transportation network company driver uses a personal vehicle in connection with a transportation network company's digital network; and

(b) the transportation network company driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the transportation network company's digital network and is available to receive transportation requests or is engaged in a prearranged ride, depending on its terms.

Sec. 10. (a) Insurers that write automobile insurance in Kansas may exclude any and all coverage afforded under the driver's or vehicle owner's insurance policy for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy, including, but not limited to:

- (1) Liability coverage for bodily injury and property damage;
- (2) personal injury protection coverage as defined in K.S.A. 40-3107(f), and amendments thereto;
- (3) uninsured and underinsured motorist coverage;
- (4) medical payments coverage;
- (5) comprehensive physical damage coverage; and
- (6) collision physical damage coverage.

Such exclusions shall apply notwithstanding any requirement under the Kansas automobile injury reparations act, K.S.A. 40-3101 et seq., and amendments thereto. Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a vehicle to transport passengers for compensation.

(b) Nothing in this section shall be deemed to preclude an insurer from providing coverage for the transportation network company driver's vehicle, if such insurer chooses to do so by contract or endorsement.

(c) Automobile insurers that exclude coverage as permitted in subsection (a) shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this act shall be deemed to invalidate or limit an exclusion contained in a policy.

(d) An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy as permitted in subsection (a) shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of section 8, and amendments thereto, at the time of loss.

(e) In a claims coverage investigation, transportation network com-

panies and any insurer potentially providing coverage under section 8, and amendments thereto, shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network company driver if applicable, including the precise times that a transportation network company driver logged on and off of the transportation network company's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any automobile insurance maintained under section 8, and amendments thereto.

Sec. 11. (a) The TNC shall implement a zero tolerance policy on the use of drugs or alcohol while a driver is providing a prearranged ride or is logged into the TNC's digital network but is not providing a prearranged ride, and shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

(b) Upon receipt of such rider complaint alleging a violation of the zero tolerance policy, the TNC shall immediately suspend such driver's access to the TNC's digital network and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

(c) The TNC shall maintain records relevant to the enforcement of this requirement for a period of at least two years from the date that a rider complaint is received by the TNC.

Sec. 12. (a) Prior to permitting an individual to act as a driver on its digital network, the TNC shall:

(1) Require the individual to submit an application to the TNC, which includes information regarding the applicant's address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance and other information required by the TNC;

(2) obtain a local and national criminal background check on the individual, conducted by the Kansas bureau of investigation;

(A) fingerprints submitted pursuant to this section shall be released by the attorney general to the Kansas bureau of investigation for the purpose of conducting criminal history records checks, utilizing the files and records of the Kansas bureau of investigation and the federal bureau of investigation; and

(B) each individual shall be subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the individual and whether the individual has been convicted of any crime that would disqualify the individual from being a transportation network driver under this act;

(3) obtain and review a driving history research report for such individual; and

(4) require the individual, if such individual's personal vehicle is subject to a lien, to provide proof of comprehensive and collision insurance coverage for such personal vehicle that covers the period when the individual is logged on to a TNC's digital network but not engaged in a prearranged ride and when the individual is engaged in a prearranged ride to the lien holder of such personal vehicle and to the TNC.

(b) The TNC shall not permit an individual to act as a driver on its digital network who:

(1) Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period, including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license;

(2) has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, or theft, acts of violence, or acts of terror;

(3) is a match in the national sex offender registry database;

(4) does not possess a valid driver's license;

(5) does not possess proof of registration for the motor vehicle or motor vehicles used to provide a prearranged ride;

(6) does not possess proof of automobile liability insurance for the personal vehicle or personal vehicles used to provide a prearranged ride; or

(7) is not at least 19 years of age.

Sec. 13. The TNC shall require that any personal vehicle that a driver will use to provide a prearranged ride meets the equipment requirements applicable to private personal vehicles under article 17 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 14. A driver shall only provide prearranged rides and shall not solicit or accept street hails.

Sec. 15. The TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments from riders and notify drivers of such policy. Drivers shall not solicit or accept cash payments from riders. Any payment for prearranged rides shall be made only electronically using the TNC's digital network.

Sec. 16. (a) The TNC shall adopt a policy of non-discrimination with respect to riders and potential riders and notify drivers of such policy.

(b) Drivers shall comply with all applicable laws regarding non-discrimination against riders or potential riders.

(c) Drivers shall comply with all applicable laws relating to accommodation of service animals.

(d) A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

(e) A TNC shall provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair-accessible TNC service in any instance, it shall direct the rider to an alternate provider of wheelchair-accessible service, if available.

Sec. 17. A TNC shall maintain:

(a) Individual trip records for at least one year from the date each trip was provided; and

(b) driver records at least until the one-year anniversary of the date on which a TNC driver's activation on the digital network has ended.

Sec. 18. A TNC shall not disclose a rider's personally identifiable information to a third party unless: (a) The rider consents or disclosure is required by a legal obligation; or (b) disclosure is required to protect or defend the terms of use of the service or to investigate violations of those terms. In addition to the foregoing, a TNC shall be permitted to share a rider's name or telephone number with the driver providing pre-arranged rides to such rider in order to facilitate correct identification of the rider by the driver, or to facilitate communication between the rider and the driver.

Sec. 19. (a) A TNC shall disclose to its TNC drivers in the prospective TNC drivers' written terms of service the following before the drivers are allowed to accept a request for TNC services on the TNC's digital network or software application:

"If the vehicle that you plan to use to provide transportation network company services has a lien against it, using the vehicle for transportation network company services may violate the terms of your contract with the lienholder."

(b) If a TNC's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the TNC shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle. The commission shall not assess any fines as a result of a violation of this subsection.

Sec. 20. This act shall take effect and be in force from and after its publication in the Kansas register.

### CERTIFICATE

In accordance with K.S.A. 45-304, it is certified that **House Substitute for Senate Bill 117**, was not approved by the Governor on April 20, 2015; was returned by him with his objections and approved on May 5, 2015 by two-thirds of the members elected to the Senate notwithstanding the objections of the governor; was reconsidered by the House of Representatives and was approved on May 5, 2015, by two-thirds of the mem-

bers elected to the House, notwithstanding the objections, the bill did pass and shall become law.

This certificate is made this 5th day of May, 2015 by the Chief Clerk and Speaker of the House of Representatives and the President and Secretary of the Senate.

SUSAN W. KANNARR  
*Chief Clerk of the House of  
Representatives of the State of Kansas*  
RAY MERRICK  
*Speaker of the House of  
Representatives of the State of Kansas*  
COREY CARNAHAN  
*Secretary of the Senate of  
the State of Kansas*  
SUSAN WAGLE  
*President of the Senate of  
the State of Kansas*

Governor's veto overridden (See Messages from the Governor)

Published in the *Kansas Register* May 14, 2015.

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## CHAPTER 44

HOUSE BILL No. 2231  
(Amended by Chapter 104)

AN ACT concerning oil and gas; relating to oil and gas wells, licensing of well operators, fees; relating to the abandoned oil and gas well fund, extension; amending K.S.A. 2014 Supp. 55-155 and 55-193 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 55-155 is hereby amended to read as follows: 55-155. (a) Operators and contractors shall be licensed by the commission pursuant to this section.

(b) Every operator and contractor shall file an application or a renewal application with the commission. Application and renewal application forms shall be prescribed, prepared and furnished by the commission.

(c) No application or renewal application shall be approved until the applicant has:

(1) Provided sufficient information, as required by the commission, for purposes of identification;

(2) submitted evidence that all current and prior years' taxes for property associated with the drilling or servicing of wells have been paid;

(3) demonstrated to the commission's satisfaction that the applicant complies with all requirements of chapter 55 of the Kansas Statutes An-

notated, and amendments thereto, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is registered with the federal securities and exchange commission;

(4) demonstrated to the commission's satisfaction that the following comply with all requirements of chapter 55 of the Kansas Statutes Annotated, and amendments thereto, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is not registered with the federal securities and exchange commission: (A) The applicant; (B) any officer, director, partner or member of the applicant; (C) any stockholder owning in the aggregate more than 5% of the stock of the applicant; and (D) any spouse, parent, brother, sister, child, parent-in-law, brother-in-law or sister-in-law of the foregoing;

(5) paid an annual license fee of \$100, except that an applicant for a license who is operating one or more gas-well wells used strictly for *personal use* ~~the purpose of heating a residential dwelling on the property where such gas wells are located~~ shall pay an annual license fee of \$25;

(6) complied with subsection (d); and

(7) paid an annual license fee of \$25 for each rig operated by the applicant. The commission shall issue an identification tag for each such rig which shall be displayed on such rig at all times.

(d) In order to assure financial responsibility, each operator shall *annually* demonstrate ~~annually~~ compliance with one of the following provisions:

(1) The operator has obtained an individual performance bond or letter of credit, in an amount equal to \$.75 times the total aggregate depth of all wells ~~(, including active, inactive, injection or disposal),~~ of the operator.

(2) The operator has obtained a blanket performance bond or letter of credit in an amount equal to the following, according to the number of wells ~~(, including active, inactive, injection or disposal),~~ of the operator:

(A) Wells less than 2,000 feet in depth: 1 through 5 wells, \$7,500; 6 through 25 wells, \$15,000; and over 25 wells, \$30,000.

(B) Wells 2,000 or more feet in depth: 1 through 5 wells, \$15,000; 6 through 25 wells, \$30,000; and over 25 wells, \$45,000.

(3) The operator: (A) Has an acceptable record of compliance, as demonstrated during the preceding 36 months, with commission rules and regulations regarding safety and pollution or with commission orders issued pursuant to such rules and regulations; (B) has no outstanding undisputed orders issued by the commission or unpaid fines, penalties or costs assessed by the commission and has no officer or director that has been or is associated substantially with another operator that has any such outstanding orders or unpaid fines, penalties or costs; and (C) pays a nonrefundable fee of \$100 per year.

(4) The operator pays a nonrefundable fee equal to 6% of the amount of the bond or letter of credit that would be required by subsection (d)(2).

(5) The state has a first lien on tangible personal property associated with oil and gas production of the operator that has a salvage value equal to not less than the amount of the bond or letter of credit that would be required by subsection (d)(1) or by subsection (d)(2).

(6) The operator has provided other financial assurance approved by the commission.

(e) Upon the approval of the application or renewal application, the commission shall issue to such applicant a license which shall be in full force and effect until one year from the date of issuance or until surrendered, suspended or revoked as provided in K.S.A. 55-162, and amendments thereto. No new license shall be issued to any applicant who has had a license revoked until the expiration of one year from the date of such revocation.

(f) If an operator transfers responsibility for the operation of a well or gas gathering system or for underground porosity storage of natural gas to another person, such operator shall file a notice of transfer of operator with the commission in accordance with rules and regulations of the commission. The commission shall, upon receipt of such notice, send a copy of such notice to the surface owner, as well as the contact information, including name, address, phone number, fax or email address, for a designated representative of the operator. The commission need not send such information if the operator verifies that the notice filed with the commission has been delivered to the surface owner. The commission need not send a copy of notice to the surface owner for transfers of responsibility for the operation of a gas gathering system or for underground porosity storage of natural gas to another person.

(g) The commission shall remit all moneys received from fees assessed pursuant to subsection (c)(7) of this section 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 and credit 10% of each such deposit shall be credited to the state general fund and with the balance shall be credited to the conservation fee fund created by K.S.A. 55-143, and amendments thereto.~~

(h) The commission shall remit all moneys received pursuant to subsections (d)(3) and (d)(4) 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 well plugging assurance fund.

Sec. 2. K.S.A. 2014 Supp. 55-193 is hereby amended to read as follows: 55-193. On July 15, 1996, and on the 15th day of each calendar quarter thereafter before July 1, ~~2016~~ 2020, the director of accounts and

reports shall transfer \$100,000 from the state general fund, ~~\$100,000 from the state water plan fund established by K.S.A. 82a-951, and amendments thereto, and \$100,000 and 200,000~~ from the conservation fee fund established by K.S.A. 55-143, and amendments thereto, to the abandoned oil and gas well fund established by K.S.A. 55-192, and amendments thereto; ~~except that: (a) No transfers shall be made pursuant to this section from the state general fund to the abandoned oil and gas well fund during state fiscal year 2013, state fiscal year 2014, or state fiscal year 2015, and (b) the aggregate of the transfers made pursuant to this section from the state water plan fund to the abandoned oil and gas well fund during state fiscal year 2013, state fiscal year 2014, and state fiscal year 2015, shall not exceed \$400,000 and such transfer from the state water plan fund to the abandoned oil and gas well fund shall be made on the 15th day of each calendar quarter during state fiscal year 2013, state fiscal year 2014, and state fiscal year 2015, in substantially equal amounts as determined by the director of accounts and reports.~~

Sec. 3. K.S.A. 2014 Supp. 55-155 and 55-193 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, 2015.

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## CHAPTER 45

### HOUSE BILL No. 2064

AN ACT concerning insurance; relating to legal services insurance, nonprofit dental service corporations, subscription agreements, disbursements; required provisions; certain definitions; the health care provider insurance availability act; definitions; self insurance, health care systems; amending K.S.A. 40-1102, 40-19a11, 40-2203 and 40-4201 and K.S.A. 2014 Supp. 40-2,118, 40-22a13, 40-3401 and 40-3414 and repealing the existing sections.

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

Section 1. K.S.A. 40-1102 is hereby amended to read as follows: 40-1102. Any insurance company, other than a life insurance company, organized under the laws of this state or authorized to transact business in this state may make all or any one or more of the kinds of insurance and reinsurance comprised in any one of the following numbered classes, subject to and in accordance with its articles of incorporation and the provisions of this code:

(1) (a) To insure against bodily injury or death by accident and against disablement resulting from sickness and every insurance appertaining thereto;

(b) to insure against the liability of the insured for the death or dis-

ability of or damages suffered by an employee or other person, and to insure the obligations accepted by or imposed upon employers under the laws for workmen's compensation;

(c) to insure against loss of or damage to, or destruction of property of the insured, or to the property interests of the insured, and to insure against such loss or damage to the property of others or to the property interests of others, for which loss or damage the insured may be liable;

(d) to become surety or guarantor for any person, copartnership or corporation in any position or place of trust or as custodian of money or property, public or private; to become a surety or guarantor for the performance by any person, copartnership or corporation of any lawful obligation, undertaking, agreement or contract of any kind, except contracts or policies of insurance;

(e) to insure titles to property and against loss by reason of defective titles or encumbrances;

(f) to insure the correctness of searches for all instruments, liens, and charges affecting property;

(g) to insure against loss by reason of the insufficiency of the security conveyed or pledged under mortgage or deed of trust;

(h) to insure the payment of bonds and notes secured by mortgages or deeds of trust, and to buy and sell mortgages or deeds of trust upon real property and interest therein;

(i) to insure against loss or damage which may result from the failure of debtors to pay their obligations to the insured, and including the incidental power to acquire and dispose of debts so insured, and to collect any debts owed to such insurer or to any person so insured by the insurer;

(j) to insure the payment of money for personal services under contracts of hiring;

(k) to make inspections of and issue certificates of inspections upon elevators, boilers, machinery and all mechanical apparatus and appliances appertaining thereto;

(l) to insure against loss of use or occupancy caused by or resulting from any of the risks comprised within this class; ~~and~~

(m) *to insure against the cost of legal services; and*

~~(m)~~(n) to insure against liability, loss or damage from any other risk, hazard, or contingency which may lawfully be the subject of insurance, and specific authority for the transaction of which has not been exclusively delegated to any other class or kind of company. Any company writing insurance against the loss or damage caused by fire, lightning, or by the perils of either marine or inland navigation or transportation, to buildings or other structures erected upon land, to piers, wharves, bulkheads, warehouses, marine vessels, railroad engines, rolling stock or equipment of railroads, or carrying charges for shipments of freight shall have a paid-up capital stock of at least \$900,000, a surplus of at least \$600,000, and shall have deposited, pursuant to K.S.A. 40-229a, *and amendments*

*thereto*, for the protection of its policyholders or creditors, or both with the commissioner of insurance securities authorized by K.S.A. 40-227, and amendments thereto, in an amount equal to not less than the minimum capital stock required by such a company, and shall maintain all reserves required by law for the kinds and classes of business transacted. The deposit required by this section for insurance companies not organized under the laws of this state may be deposited as provided herein or with the insurance department of any other state in the United States.

Sec. 2. K.S.A. 40-4201 is hereby amended to read as follows: 40-4201. As used in this act, unless the context requires otherwise:

(a) “Prepaid service plan” means any person, company, corporation, partnership or other legal entity who collects periodic fees on a prepaid basis from residents of this state in connection with for-profit legal or dental coverage other than: (1) An employer on behalf of its employees or the employees of one or more subsidiary or affiliated corporations of such employer; (2) a union or association on behalf of its members ~~or~~; (3) an organization transacting business in this state pursuant to article 19a of chapter 40 of the Kansas Statutes Annotated, *and amendments thereto*, including their sales representatives when engaged in the performance of their duties as such; (4) *an insurance company duly authorized to conduct insurance pursuant to K.S.A. 40-1102(1)(m), and amendments thereto*; or (5) *a company providing products and services to customers for a fee where customers receive consultations with a licensed attorney connected to the customer by the company, so long as the company does not directly provide legal services, pay for legal services beyond a minimal administrative fee per customer or indemnify or reimburse the customer for any legal expenses incurred.*

(b) “Provider” means any attorney or dentist currently licensed and in good standing in this state who enters into a provider agreement as defined in this act.

(c) “Member” means an individual or person on behalf of a group of individuals who enters into a membership agreement with a prepaid service plan which agrees to provide legal or dental services to the member: (1) For a predetermined monthly membership fee; (2) at a reduced rate in exchange for such a monthly membership fee; or (3) a combination of both a predetermined monthly fee and a reduced rate in exchange for such a monthly membership fee.

(d) “Membership agreement” means the written contract between the member and the prepaid service plan.

(e) “Provider agreement” means the written contract between the provider and the prepaid service plan.

Sec. 3. K.S.A. 40-19a11 is hereby amended to read as follows: 40-19a11. (a) No corporation subject to the provisions of this act shall during any one year disburse more than ~~five percent (5%)~~ 5% of the aggregate

amount of the payments received ~~from subscribers pursuant to K.S.A. 40-19a02, and amendments thereto~~, during that year as expenditures for ~~the soliciting of subscribers solicitation~~, except that during the first year after the issuance of a permit, such corporation may so disburse not more than ~~twenty percent (20%)~~ 20% of such amount, during the second year not more than ~~fifteen percent (15%)~~ 15%, and during the third year not more than ~~ten percent (10%)~~ 10%.

(b) No such corporation shall, during any one year, disburse more than ~~twelve percent (12%)~~ 12% of the aggregate amount of the payments received ~~from subscribers pursuant to K.S.A. 40-19a02, and amendments thereto~~, during that year as administrative expenses, except that during the first two years after the issuance of the permit, such corporation may disburse not more than ~~twenty percent (20%)~~ 20% of the payments received ~~from subscribers pursuant to K.S.A. 40-19a02, and amendments thereto~~. The term, "administrative expenses," as used in this section, shall include all expenditures for nonprofessional services and, in general, all expenses not directly connected with the furnishing of the benefits specified in this act, but not including expenses referred to in subsection (a) ~~hereof~~.

Sec. 4. K.S.A. 2014 Supp. 40-2,118 is hereby amended to read as follows: 40-2,118. (a) For purposes of this act a "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written, *electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication* or statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto.

(b) An insurer that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed shall provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may require.

(c) Any other person that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed may provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may request.

(d) (1) Each insurer shall have antifraud initiatives reasonably calcu-

lated to detect fraudulent insurance acts. Antifraud initiatives may include: fraud investigators, who may be insurer employees or independent contractors; ~~or~~ and an antifraud plan submitted to the commissioner no later than July 1, 2007. Each insurer that submits an antifraud plan shall notify the commissioner of any material change in the information contained in the antifraud plan within 30 days after such change occurs. Such insurer shall submit to the commissioner in writing the amended antifraud plan.

The requirement for submitting any antifraud plan, or any amendment thereof, to the commissioner shall expire on the date specified in ~~paragraph (2) of this subsection (d)(2)~~ unless the legislature reviews and reenacts the provisions of ~~paragraph subsection (d)(2)~~ pursuant to K.S.A. 45-229, and amendments thereto.

(2) Any antifraud plan, or any amendment thereof, submitted to the commissioner for informational purposes only shall be confidential and not be a public record and shall not be subject to discovery or subpoena in a civil action unless following an in camera review, the court determines that the antifraud plan is relevant and otherwise admissible under the rules of evidence set forth in article 4 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto. The provisions of this paragraph shall expire on July 1, 2016, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2016.

(e) Except as otherwise specifically provided in ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5812(a), and amendments thereto, and K.S.A. 44-5,125, and amendments thereto, a fraudulent insurance act shall constitute a severity level 6, nonperson felony if the amount involved is \$25,000 or more; a severity level 7, nonperson felony if the amount is at least \$5,000 but less than \$25,000; a severity level 8, nonperson felony if the amount is at least \$1,000 but less than \$5,000; and a class C nonperson misdemeanor if the amount is less than \$1,000. Any combination of fraudulent acts as defined in subsection (a) which occur in a period of six consecutive months which involves \$25,000 or more shall have a presumptive sentence of imprisonment regardless of its location on the sentencing grid block.

(f) In addition to any other penalty, a person who violates this statute shall be ordered to make restitution to the insurer or any other person or entity for any financial loss sustained as a result of such violation. An insurer shall not be required to provide coverage or pay any claim involving a fraudulent insurance act.

(g) This act shall apply to all insurance applications, ratings, claims and other benefits made pursuant to any insurance policy.

Sec. 5. K.S.A. 2014 Supp. 40-22a13 is hereby amended to read as

follows: 40-22a13. On and after July 1, 2011, for the purposes of K.S.A. 40-22a13 through 40-22a16, and amendments thereto:

(a) “Adverse decision” means a utilization review determination by a third-party administrator, a health insurance plan, an insurer or a health care provider acting on behalf of an insured that a proposed or delivered health care service which would otherwise be covered under an insured’s contract is not or was not medically necessary or the health care treatment has been determined to be experimental or investigational and:

(1) If the requested service is provided in a manner that leaves the insured with a financial obligation to the provider or providers of such services; or

(2) the adverse decision is the reason for the insured not receiving the requested services.

(b) “Emergency medical condition” means:

(1) The sudden, and at the time, unexpected onset of a health condition that requires immediate medical attention, where failure to provide medical attention would result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part or would place a person’s health in serious jeopardy;

(2) a medical condition where the time frame for completion of a standard external review would seriously jeopardize the life or health of the insured or would jeopardize the insured’s ability to regain maximum function; or

(3) a medical condition for which coverage has been denied based on a determination that the recommended or requested health care service or treatment is experimental or investigational, if the insured’s treating physician certifies, in writing, that the recommended or requested health care service or treatment for the medical condition would be significantly less effective if not promptly initiated.

(c) “External review organization” means an entity that conducts independent external reviews of adverse decisions pursuant to a contract with the commissioner. Such entity shall ~~have experience serving as the external quality review organization in health programs administered by the state of Kansas, or~~ be a nationally accredited external review organization which utilizes health care providers actively engaged in the practice of their profession in the state of Kansas who are qualified and credentialed with respect to the health care service review. In the event *the entity has* no Kansas providers *available who* are qualified and credentialed with respect to the review of any case, the external review organization shall have the discretion to employ health care providers who actively engage in such health care provider’s practice outside the state of Kansas.

(d) “Health insurance plan” means any hospital or medical expense policy, health, hospital or medical service corporation contract, and a plan provided by a municipal group-funded pool, or a health maintenance

organization contract offered by an employer or any certificate issued under any such policies, contracts or plans.

(e) “Insured” means the beneficiary of any health insurance company, fraternal benefit society, health maintenance organization, non-profit hospital and medical service corporation, municipal group-funded pool, and the self-funded coverage established by the state of Kansas, or any hospital or medical expense, health, hospital or medical service corporation contract or a plan provided by a municipal group-funded pool.

(f) “Insurer” means any health insurance company, fraternal benefit society, health maintenance organization, nonprofit hospital and medical service corporation, provider sponsored organizations, municipal group-funded pool and the self-funded coverage established by the state of Kansas for its employees.

Sec. 6. K.S.A. 40-2203 is hereby amended to read as follows: 40-2203. (A) Required provisions. Except as provided in paragraph (C) of this section every such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section, but the insurer, at its option, may substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner of insurance which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this subsection or at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner of insurance may approve.

(1) A provision as follows: “*Entire contract; changes:* This policy, including the endorsement and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.”

(2) A provision as follows: “*Time limit on certain defenses:* (a) After two years from the date of issue of this policy no misstatements, except fraudulent misstatement, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.”

The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two year period, nor to limit the application of subsections (B)(1), (2), (3), (4) and (5) in the event of misstatement with respect to age or occupation or other insurance.

A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age 50,

or (2) in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "*Incontestable*": "After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application."

(b) "No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss has existed prior to the effective date of coverage of this policy."

(3) A provision as follows: "*Grace period*: A grace period of \_\_\_\_\_" (insert a number not less than "7" for weekly premium policies, "10" for monthly premium policies and "31" for all other policies) "days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force." A policy which contains a cancellation provision may add, at the end of the above provision, "subject to the right of the insurer to cancel in accordance with the cancellation provision hereof." A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision, "Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to the last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted."

(4) A provision as follows: "*Reinstatement*: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium without requiring in connection therewith an application for reinstatement shall reinstate the policy. If the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the 45th day following the date such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement

shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement.” The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue.

(5) A provision as follows: “*Notice of claim:* Written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at \_\_\_\_\_” (insert the location of such office as the insurer may designate for the purpose), “or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.” In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provisions: “Subject to the qualification set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured’s right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.

(6) A provision as follows: “*Claim forms:* The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within 15 days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.”

(7) A provision as follows: “*Proofs of loss:* Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished

as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.”

(8) A provision as follows: “*Time of payment of claims:* Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid \_\_\_\_\_” (insert period for payment which must not be less frequently than monthly) “and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.”

(9) A provision as follows: “*Payment of claims:* Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured’s death, at the option of the insurer, may be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.” The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer: “If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$\_\_\_\_\_” (insert an amount which shall not exceed \$1,000), “to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment. Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer’s option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.”

(10) A provision as follows: “*Physical examinations and autopsy:* The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.”

(11) A provision as follows: “*Legal actions:* No action at law or in equity shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance

with the requirements of this policy. No such action shall be brought after the expiration of five years after the time written proof of loss is required to be furnished.”

(12) A provision as follows: “*Change of beneficiary*: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.”

The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer’s option.

(13) A provision as follows: “*Cancellation by insured*: The insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt of such notice or on such later date as may be specified in such notice. In the event of cancellation or death of the insured, the insurer will promptly return the unearned portion of any premium paid. The earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.” When approved by the commissioner, the “cancellation” provision appearing in subsection (B)(8) may be substituted for the above.

(B) *Other provisions*: Except as provided in paragraph (C) of this section, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section, but the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner of insurance which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner of insurance may approve.

(1) A provision as follows: “*Change of occupation*: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium

rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.”

(2) A provision as follows: “*Misstatement of age*: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.”

(3) A provision as follows: “*Other insurance in this insurer*: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for \_\_\_\_\_” (insert type of coverage or coverages) “in excess of \_\_\_\_\_” (insert maximum limit of indemnity or indemnities) “the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate”; or, in lieu thereof: “Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies.”

(4) A provision as follows: “*Insurance with other insurers*: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the ‘like amount’ of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.” If the foregoing policy provision is included in a policy which also contains the next following policy provision there shall be added to the caption of the foregoing provision the phrase “\_\_\_\_\_ expense incurred benefits.” The insurer, at its option, may include in this provision a definition of “other valid coverage,”

approved as to form by the commissioner of insurance, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner of insurance. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage." *The provisions of this paragraph shall not apply to any individual policy of accident and sickness insurance, as defined in K.S.A. 40-2201, and amendments thereto.*

(5) A provision as follows: "*Insurance with other insurers:* If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined." If the foregoing policy provision is included in a policy which also contains the next preceding policy provision there shall be added to the caption of the foregoing provision the phrase "\_\_\_\_\_ other benefits." The insurer, at its option, may include in this provision a definition of "other valid coverage," approved as to form by the commissioner of insurance, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner of insurance. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workers com-

pensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third-party liability coverage shall be included as "other valid coverage." *The provisions of this paragraph shall not apply to any individual policy of accident and sickness insurance, as defined in K.S.A. 40-2201, and amendments thereto.*

(6) A provision as follows: "*Relation of earnings to insurance:* If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or the average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of \$200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time." The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50, or (2) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer, at its option, may include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner of insurance, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner of insurance or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workers compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

(7) A provision as follows: "*Unpaid premium:* Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom."

(8) A provision as follows: "*Cancellation:* The insurer may cancel this

policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.”

(9) A provision as follows: “*Conformity with state statutes*: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.”

(10) A provision as follows: “*Illegal occupation*: The insurer shall not be liable for any loss to which a contributing cause was the insured’s commission of or attempt to commit a felony or to which a contributing cause was the insured’s being engaged in an illegal occupation.”

(11) A provision as follows: “*Intoxicants and narcotics*: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured’s being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.”

(C) *Inapplicable or inconsistent provisions*: If any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy the insurer, with the approval of the commissioner of insurance, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

(D) *Order of certain policy provisions*: The provisions which are the subject of subsection (A) and (B) of this section, or any corresponding provisions which are used in lieu thereof in accordance with such subsections, shall be printed in the consecutive order of the provisions in such subsections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy, shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

(E) *Third-party ownership*: The word “insured,” as used in this act, shall not be construed as preventing a person other than the insured with

a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

(F) *Requirements of other jurisdictions:* (1) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this act and which is prescribed or required by the law of the state under which the insurer is organized.

(2) Any policy of a domestic insurer, when issued for delivery in any other state or country, may contain any provision permitted or required by the laws of such other state or country.

(G) *Filing procedure:* The commissioner of insurance may make such reasonable rules and regulations concerning the procedure for the filing or submission of policies subject to this act as are necessary, proper or advisable to the administration of this act. This provision shall not abridge any other authority granted the commissioner of insurance by law.

(H) (1) No policy issued by an insurer 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.

(2) Violation of this subsection shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

Sec. 7. K.S.A. 2014 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(a) or (b), 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 July thereafter.

(e) "Fund" means the health care stabilization fund established pursuant to ~~subsection (a)~~ of K.S.A. 40-3403(a), 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, 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 state of Kansas, a podiatrist licensed by the state board of healing arts, 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 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 the state board of nursing*; (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 *or nurse anesthetist* 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~~

~~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 *the 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 coverage 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 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 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.

(y) *“Health care facility” means a nursing facility, an assisted living facility or a residential health care facility as all such terms are defined in K.S.A. 39-923, and amendments thereto.*

Sec. 8. K.S.A. 2014 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 operates ~~two or more~~ *than one* medical care ~~facilities~~ *facility or more than one health care facility, as defined in K.S.A. 40-3401, and amendments thereto*, licensed by the 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 sol-

diers' 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 (e) of~~ K.S.A. 40-3402(c), 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 (e) of~~ K.S.A. 40-3402(c), and amendments thereto.

(d) Persons engaged in residency training as provided in ~~subsections (r)(1) and (2) of~~ K.S.A. 40-3401(r)(1) and (2), 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 extracurricular, extra-institutional medical service for which such person receives extra compensation and which have not been approved as provided in ~~subsections (r)(1) and (2) of~~ K.S.A. 40-3401(r)(1) and (2), 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(c)~~, 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(r)(2)~~, 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(f)~~, 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(a), 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(l), 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. 9. K.S.A. 40-1102, 40-19a11, 40-2203 and 40-4201 and K.S.A. 2014 Supp. 40-2,118, 40-22a13, 40-3401 and 40-3414 are hereby repealed.

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

Approved May 7, 2015.

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## CHAPTER 46

### SENATE SUBSTITUTE FOR HOUSE BILL No. 2225

AN ACT concerning the healing arts; regarding licenses and medical retainer agreements; access to health care records; amending K.S.A. 65-2811a, 65-2852, as amended by section 21 of chapter 131 of the 2014 Session Laws of Kansas, 65-2857, as amended by section 22 of chapter 131 of the 2014 Session Laws of Kansas, 65-2860, as amended by section 24 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a02, as amended by section 42 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a08, as amended by section 47 of chapter 131 of the 2014 Session Laws of Kansas, 65-4941 and 65-4942 and K.S.A. 2013 Supp. 65-1626, as amended by section 4 of chapter 131 of the 2014 Session Laws of Kansas, 65-2809, as amended by section 7 of chapter 131 of the 2014 Session Laws of Kansas, 65-2836, as amended by section 10 of chapter 131 of the 2014 Session Laws of Kansas, 65-2895, as amended by section 36 of chapter 131 of the 2014 Session Laws of Kansas, 65-28,127, as amended by section 40 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a03, as amended by section 43 of chapter 131 of the 2014 Session Laws of Kansas, 65-4101, as amended by section 50 of chapter 131 of the 2014 Session Laws of Kansas and 72-8252, as amended by section 54 of chapter 131 of the 2014 Session Laws of Kansas and K.S.A. 2014 Supp. 65-6824 and repealing the existing sections.

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

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

(1) “Health care provider” means a person licensed under the healing arts act as specified by K.S.A. 65-2802(d), and amendments thereto. Health care provider includes an individual or other legal entity alone or with others professionally associated with the individual or other legal entity.

(2) “Medical retainer agreement” means a contract between a health care provider and an individual patient or patient’s legal representative in which the health care provider agrees to provide routine health care

services to the individual patient for an agreed-upon fee and period of time.

(3) “Routine health care service” means only the following:

(A) Screening, assessment, diagnosis and treatment for the purpose of promotion of health or the detection and management of disease or injury;

(B) medical supplies and prescription drugs that are dispensed in a health care provider’s office or facility site;

(C) laboratory work including routine blood screening or routine pathology screening performed by a laboratory that meets either of the following requirements:

(i) Is associated with the health care provider that is a party to the medical retainer agreement; or

(ii) if not associated with the health care provider, has entered into an agreement with the health care provider that is a party to the medical retainer agreement to provide the laboratory work without charging a fee to the patient for the laboratory work.

(b) (1) A medical retainer agreement is not insurance and shall not be subject to any provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto. Entering into a medical retainer agreement is not the business of insurance and is not subject to any provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(2) A health care provider or agent of a health care provider is not required to obtain a certificate of authority or license under chapter 40 of the Kansas Statutes Annotated, and amendments thereto, to market, sell or offer to sell a medical retainer agreement.

(3) To be considered a medical retainer agreement for the purposes of this section, the agreement must meet all of the following requirements:

(A) Be in writing;

(B) be signed by the health care provider or agent of the health care provider and the individual patient or such patient’s legal representative;

(C) allow either party to terminate the agreement on written notice to the other party;

(D) describe and quantify the specific routine health care services that are included in the agreement;

(E) specify the fee for the agreement;

(F) specify the period of time under the agreement;

(G) prominently state in writing that the agreement is not health insurance;

(H) prohibit the health care provider and the patient from billing an insurer or other third party payer for the services provided under the agreement; and

(I) prominently state in writing that the individual patient must pay

the provider for all services not specified in the agreement and not otherwise covered by insurance.

(c) At the top of the first page of the medical retainer agreement, the language shall prominently state in writing, in boldface type in 10 point font or greater and in the following form with all words capitalized:

**NOTICE: THIS MEDICAL RETAINER AGREEMENT DOES NOT CONSTITUTE INSURANCE, IS NOT A MEDICAL PLAN THAT PROVIDES HEALTH INSURANCE COVERAGE FOR PURPOSES OF THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT AND COVERS ONLY LIMITED, ROUTINE HEALTH CARE SERVICES AS DESIGNATED IN THIS AGREEMENT.**

This notice shall be followed by a short, parallel line which shall be initialed by the patient or the patient's legal representative to indicate the patient or patient's legal representative has read the notice statement.

Sec. 2. On and after July 1, 2015, K.S.A. 2013 Supp. 65-1626, as amended by section 4 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-1626. For the purposes of this act:

(a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

- (1) A practitioner or pursuant to the lawful direction of a practitioner;
- (2) the patient or research subject at the direction and in the presence of the practitioner; or
- (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments thereto.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but shall not include a common carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

(c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) "Authorized distributor of record" means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in section 1504 of the internal revenue code, complies with any one of the following: (1) The wholesale distributor has a written agreement currently in effect with the manufacturer

evidencing such ongoing relationship; and (2) the wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

(e) "Board" means the state board of pharmacy created by K.S.A. 74-1603, and amendments thereto.

(f) "Brand exchange" means the dispensing of a different drug product of the same dosage form and strength and of the same generic name as the brand name drug product prescribed.

(g) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

(h) "Chain pharmacy warehouse" means a permanent physical location for drugs or devices, or both, that acts as a central warehouse and performs intracompany sales or transfers of prescription drugs or devices to chain pharmacies that have the same ownership or control. Chain pharmacy warehouses must be registered as wholesale distributors.

(i) "Co-licensee" means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug and the national drug code on the drug product label shall be used to determine the identity of the drug manufacturer.

(j) "DEA" means the U.S. department of justice, drug enforcement administration.

(k) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.

(l) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

(m) "Dispense" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner.

(n) "Dispenser" means a practitioner or pharmacist who dispenses prescription medication, or a physician assistant who has authority to dispense prescription-only drugs in accordance with ~~subsection (b)~~ of K.S.A. 65-28a08(b), and amendments thereto.

(o) "Distribute" means to deliver, other than by administering or dispensing, any drug.

(p) "Distributor" means a person who distributes a drug.

(q) "Drop shipment" means the sale, by a manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of the manufacturer's pre-

scription drug, to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug, and the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug receives delivery of the prescription drug directly from the manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of such prescription drug. Drop shipment shall be part of the "normal distribution channel."

(r) "Drug" means: (1) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in ~~clause~~ *paragraph* (1), (2) or (3) of this subsection; but does not include devices or their components, parts or accessories, except that the term "drug" shall not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

(s) "Durable medical equipment" means technologically sophisticated medical devices that may be used in a residence, including the following: (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory disease management devices; (4) continuous positive airway pressure (CPAP) devices; (5) electronic and computerized wheelchairs and seating systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator (TENS) units; (8) low air loss cutaneous pressure management devices; (9) sequential compression devices; (10) feeding pumps; (11) home phototherapy devices; (12) infusion delivery devices; (13) distribution of medical gases to end users for human consumption; (14) hospital beds; (15) nebulizers; or (16) other similar equipment determined by the board in rules and regulations adopted by the board.

(t) "Electronic prescription" means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(u) "Electronic prescription application" means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber's computers and servers where access and records are controlled by the prescriber.

(v) "Electronic signature" means a confidential personalized digital key, code, number or other method for secure electronic data transmis-

sions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(w) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(x) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

(y) "Exclusive distributor" means any entity that: (1) Contracts with a manufacturer to provide or coordinate warehousing, wholesale distribution or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must be an authorized distributor of record.

(z) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(aa) "Generic name" means the established chemical name or official name of a drug or drug product.

(bb) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is maintained or operated for the purpose of providing the drug needs of:

(A) Inmates of a jail or correctional institution or facility;

(B) residents of a juvenile detention facility, as defined by the revised Kansas code for care of children and the revised Kansas juvenile justice code;

(C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;

(D) employees of a business or other employer; or

(E) persons receiving inpatient hospice services.

(2) "Institutional drug room" does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

(C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

(cc) “Intermediary” means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(dd) “Intracompany transaction” means any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership or control of a corporate entity, or any transaction or transfer between co-licensees of a co-licensed product.

(ee) “Medical care facility” shall have the meaning provided in K.S.A. 65-425, and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, except community mental health centers and facilities for people with intellectual disability.

(ff) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual’s own use or the preparation, compounding, packaging or labeling of a drug by:

(1) A practitioner or a practitioner’s authorized agent incident to such practitioner’s administering or dispensing of a drug in the course of the practitioner’s professional practice;

(2) a practitioner, by a practitioner’s authorized agent or under a practitioner’s supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or

(3) a pharmacist or the pharmacist’s authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

(gg) “Manufacturer” means a person licensed or approved by the FDA to engage in the manufacture of drugs and devices.

(hh) “Mid-level practitioner” means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs *prior to January 11, 2016*, pursuant to a written protocol *with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after Jan-*

uary 11, 2016, pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

(ii) “Normal distribution channel” means a chain of custody for a prescription-only drug that goes from a manufacturer of the prescription-only drug, from that manufacturer to that manufacturer’s co-licensed partner, from that manufacturer to that manufacturer’s third-party logistics provider; or from that manufacturer to that manufacturer’s exclusive distributor, directly or by drop shipment, to:

(1) A pharmacy to a patient or to other designated persons authorized by law to dispense or administer such drug to a patient;

(2) a wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient;

(3) a wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse’s intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; or

(4) a chain pharmacy warehouse to the chain pharmacy warehouse’s intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient.

(jj) “Person” means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

(kk) “Pharmacist” means any natural person licensed under this act to practice pharmacy.

(ll) “Pharmacist-in-charge” means the pharmacist who is responsible to the board for a registered establishment’s compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist-in-charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

(mm) “Pharmacist intern” means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving an internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who has successfully passed equivalency examinations approved by the board.

(nn) “Pharmacy,” “drugstore” or “apothecary” means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words “pharmacist,” “pharmaceutical chemist,” “pharmacy,” “apoth-

ecary,” “drugstore,” “druggist,” “drugs,” “drug sundries” or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign “Rx” may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

(oo) “Pharmacy prescription application” means software that is used to process prescription information, is installed on a pharmacy’s computers or servers, and is controlled by the pharmacy.

(pp) “Pharmacy technician” means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

(qq) “Practitioner” means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

(rr) “Preceptor” means a licensed pharmacist who possesses at least two years’ experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist.

(ss) “Prescriber” means a practitioner or a mid-level practitioner.

(tt) “Prescription” or “prescription order” means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a prescriber in the authorized course of such prescriber’s professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such prescriber, regardless of whether the communication is oral, electronic, facsimile or in printed form.

(uu) “Prescription medication” means any drug, including label and container according to context, which is dispensed pursuant to a prescription order.

(vv) “Prescription-only drug” means any drug whether intended for use by man or animal, required by federal or state law, including 21 U.S.C. § 353, to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

(ww) “Probation” means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the

state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

(xx) “Professional incompetency” means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy.

(yy) “Readily retrievable” means that records kept by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(zz) “Retail dealer” means a person selling at retail 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 intended for human use by hypodermic injection.

(aaa) “Secretary” means the executive secretary of the board.

(bbb) “Third party logistics provider” means an entity that: (1) Provides or coordinates warehousing, distribution or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug’s sale or disposition; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must also be an authorized distributor of record.

(ccc) “Unprofessional conduct” means:

(1) Fraud in securing a registration or permit;

(2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;

(3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;

(4) intentionally falsifying or altering records or prescriptions;

(5) unlawful possession of drugs and unlawful diversion of drugs to others;

(6) willful betrayal of confidential information under K.S.A. 65-1654, and amendments thereto;

- (7) conduct likely to deceive, defraud or harm the public;
- (8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;
- (9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or
- (10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

(ddd) "Vaccination protocol" means a written protocol, agreed to by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, which establishes procedures and record-keeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

(eee) "Valid prescription order" means a prescription that is issued for a legitimate medical purpose by an individual prescriber licensed by law to administer and prescribe drugs and acting in the usual course of such prescriber's professional practice. A prescription issued solely on the basis of an internet-based questionnaire or consultation without an appropriate prescriber-patient relationship is not a valid prescription order.

(fff) "Veterinary medical teaching hospital pharmacy" means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a nonhuman.

(ggg) "Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs or devices in or into the state, including, but not limited to, manufacturers, repackagers, own-label distributors, private-label distributors, jobbers, brokers, warehouses, including manufacturers' and distributors' warehouses, co-licensees, exclusive distributors, third party logistics providers, chain pharmacy warehouses that conduct wholesale distributions, and wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distributions. Wholesale distributor shall not include persons engaged in the sale of durable medical equipment to consumers or patients.

(hhh) "Wholesale distribution" means the distribution of prescription drugs or devices by wholesale distributors to persons other than consumers or patients, and includes the transfer of prescription drugs by a pharmacy to another pharmacy if the total number of units of transferred drugs during a twelve-month period does not exceed 5% of the total number of all units dispensed by the pharmacy during the immediately preceding twelve-month period. Wholesale distribution does not include:

- (1) The sale, purchase or trade of a prescription drug or device, an offer to sell, purchase or trade a prescription drug or device or the dispensing of a prescription drug or device pursuant to a prescription;
- (2) the sale, purchase or trade of a prescription drug or device or an

offer to sell, purchase or trade a prescription drug or device for emergency medical reasons;

(3) intracompany transactions, as defined in this section, unless in violation of own use provisions;

(4) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device among hospitals, chain pharmacy warehouses, pharmacies or other health care entities that are under common control;

(5) the sale, purchase or trade of a prescription drug or device or the offer to sell, purchase or trade a prescription drug or device by a charitable organization described in 503(c)(3) of the internal revenue code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(6) the purchase or other acquisition by a hospital or other similar health care entity that is a member of a group purchasing organization of a prescription drug or device for its own use from the group purchasing organization or from other hospitals or similar health care entities that are members of these organizations;

(7) the transfer of prescription drugs or devices between pharmacies pursuant to a centralized prescription processing agreement;

(8) the sale, purchase or trade of blood and blood components intended for transfusion;

(9) the return of recalled, expired, damaged or otherwise non-salable prescription drugs, when conducted by a hospital, health care entity, pharmacy, chain pharmacy warehouse or charitable institution in accordance with the board's rules and regulations;

(10) the sale, transfer, merger or consolidation of all or part of the business of a retail pharmacy or pharmacies from or with another retail pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with the board's rules and regulations;

(11) the distribution of drug samples by manufacturers' and authorized distributors' representatives;

(12) the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use; or

(13) the sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a third party returns processor in accordance with the board's rules and regulations.

Sec. 3. On and after July 1, 2015, K.S.A. 2013 Supp. 65-2809, as amended by section 7 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2809. (a) The license shall ~~expire~~ *be canceled* on the date established by rules and regulations of the board

which may provide renewal throughout the year on a continuing basis. In each case in which a license is renewed for a period of time of more or less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-2852, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the ~~expiration~~ *renewal* date of the license.

(b) There is hereby created a designation of an active license. The board is authorized to issue an active license to any licensee who make written application for such license on a form provided by the board and remits the fee for an active license established pursuant to K.S.A. 65-2852, and amendments thereto. The board shall require every active licensee to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education for licensees of each branch of the healing arts shall be established by rules and regulations adopted by the board.

(c) The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments thereto, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

(d) At least 30 days before the ~~expiration~~ *renewal date* of a licensee's license, the board shall notify the licensee of the ~~expiration~~ *renewal date* by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to *submit the renewal application and pay the renewal fee by the date of the expiration renewal date* of the license, the licensee shall be given a second notice that the ~~licensee's license has expired~~ *licensee has failed to submit the renewal application and pay the renewal fee by the renewal date of the license*, that the license will be deemed canceled if not renewed within 30 days following the ~~date of expiration~~ *renewal date*, that upon receipt of the *renewal application and renewal fee and an additional fee established by rules and regulations of the board not to exceed \$500 within the thirty-day 30-day* period the license will not be canceled and that, if both fees are not received within the ~~thirty-day 30-day~~ *30-day* period, the license shall be deemed canceled by operation of law and without further proceedings.

(e) Any license canceled for failure to renew may be reinstated within two years of cancellation upon recommendation of the board and upon payment of the renewal fees then due and upon proof of compliance with the continuing educational requirements established by the board by rules and regulations. Any person who has not been in the active practice of the branch of the healing arts for which reinstatement is sought or who has not been engaged in a formal educational program during the two years preceding the application for reinstatement may be required to

complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(f) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an exempt license established pursuant to K.S.A. 65-2852, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of the healing arts in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the branch of the healing arts for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the healing arts act, except as otherwise provided in this subsection (f). The holder of an exempt license may be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees of each branch of the healing arts shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of the appropriate branch of the healing arts upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852, and amendments thereto. For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice the healing arts within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of the healing arts or engaged in a formal educational program since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety. Nothing in this subsection (f) shall be construed to prohibit a person holding an exempt license from serving as a coroner or as a paid employee of: (1) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

(g) There is hereby created a designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to K.S.A. 65-2852, and amendments thereto. The board may issue an inactive license only to a person who is not regularly engaged in the practice of the healing

arts in Kansas, who does not hold oneself out to the public as being professionally engaged in such practice and who meets the definition of inactive health care provider as defined in K.S.A. 40-3401, and amendments thereto. An inactive license shall not entitle the holder to practice the healing arts in this state. Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee shall be subject to all provisions of the healing arts act, except as otherwise provided in this subsection (g). The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by K.S.A. 65-2809, and amendments thereto. Each inactive licensee may apply for an active license upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852, and amendments thereto. For those licensees whose license has been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice the healing arts within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of the healing arts or engaged in a formal education program since the licensee has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(h) (1) There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes written application for such license on a form provided by the board and remits the same fee required for a license established under K.S.A. 65-2852, and amendments thereto. The board may issue a federally active license only to a person who meets all the requirements for a license to practice the healing arts in Kansas and who practices that branch of the healing arts solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies. A person issued a federally active license may engage in limited practice outside of the course of federal employment consistent with the scope of practice of exempt licensees under subsection (f), except that the scope of practice of a federally active licensee shall be limited to the following: (A) Performing administrative functions, including peer review, disability determinations, utilization review and expert opinions; (B) providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation except that nothing in this ~~subpart~~ ~~subsection~~ (h)(1)(B) shall prohibit a person licensed to practice the healing arts issued a federally active license from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing such services; and (C) rendering professional services

as a charitable health care provider as defined in K.S.A. 75-6102, and amendments thereto.

(2) The provisions of subsections (a), (b), (d) and (e) of this section relating to continuing education, ~~expiration and cancellation~~, renewal ~~and reinstatement~~ of a license shall be applicable to a federally active license issued under this subsection.

(3) A person who practices under a federally active license shall not be deemed to be rendering professional service as a health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.

(j) (1) There is hereby created the designation of reentry *active* license. The board is authorized to issue a reentry *active* license to any licensee who makes written application for such license on a form provided by the board and remits the fee for a reentry *active* license. The board may issue a reentry *active* license with requirements as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety to a person who has not regularly engaged in the practice of the healing arts for at least two years, but who meets all the qualifications for licensure. The requirements for issuance, ~~renewal maintenance~~ and scope of practice for a reentry *active* license shall be established by rules and regulations adopted by the board.

(2) *The provisions of subsections (a), (b) and (d) of this section relating to continuing education, cancellation and renewal of a license shall be applicable to a reentry active license issued under this subsection.*

Sec. 4. On and after July 1, 2015, K.S.A. 65-2811a is hereby amended to read as follows: 65-2811a. (a) ~~The state board of healing arts may issue a special permit to practice the appropriate branch of the healing arts medicine and surgery, under the supervision of a person licensed to practice such branch of the healing arts medicine and surgery, to any person who has completed undergraduate training in a branch of the healing arts at the university of Kansas school of medicine and who has not engaged in a full-time approved postgraduate training program.~~

(b) Such special permit shall be issued only to a person who: (1) Has made proper application for such special permit upon forms approved by the state board of healing arts;

(2) meets all qualifications of licensure except examinations and postgraduate training, as required by the Kansas healing arts act;

(3) ~~is not yet but will be engaged in~~ *has not yet commenced* a full-time, approved postgraduate training program in Kansas;

(4) has obtained the sponsorship of a person licensed to practice ~~the branch of the healing arts in which the applicant is training~~, *medicine and surgery* which sponsor practices in an area of Kansas which is determined under K.S.A. 76-375, and amendments thereto, to be medically underserved; and

(5) has paid the prescribed fees as established by the state board of healing arts for the application for and granting of such special permit.

(c) The special permit, when issued, shall authorize the person to whom the special permit is issued to practice ~~the branch of the healing arts in which such person is training~~ *medicine and surgery* under the supervision of the person licensed to practice ~~that branch of the healing arts~~ *medicine and surgery* who has agreed to sponsor *and accept responsibility for the services rendered by* such special permit holder. *A special permit holder may prescribe drugs, but may not prescribe controlled substances.* The special permit shall not authorize the person holding the special permit to engage in the private practice of ~~the healing arts~~ *medicine and surgery*. The holder of a special permit under this section shall not charge patients a fee for services rendered but may be compensated directly by the person under whose supervision and sponsorship the permit holder is practicing. *A special permit holder shall clearly identify oneself to patients as a physician in training and may use the term "doctor" or "Dr."* The special permit shall expire on the day the person holding the special permit becomes engaged in a full-time, approved postgraduate training program or one year from its date of issuance, whichever occurs first. *In no event may a special permit be renewed more than once.*

(d) *For the purposes of this section, "supervision" means that the supervising licensee is physically present within the healthcare facility or other site of patient care and is immediately available to the special permit holder.*

(e) *A person who practices under a special permit issued herein shall not be deemed to be rendering professional service as a health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.*

(f) *A person who practices under a special permit issued herein shall be subject to all provisions of the healing arts act, except as otherwise provided in this section.*

(g) *The board may adopt all necessary rules and regulations, not inconsistent herewith, for carrying out the provisions of this section.*

(h) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 5. On and after July 1, 2015, K.S.A. 2013 Supp. 65-2836, as amended by section 10 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2836. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly ~~or privately~~ censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(a) The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency, except that the board may take appropriate disciplinary action or enter into a non-disciplinary resolution when a licensee has engaged in any conduct or professional practice on a single occasion that, if continued, would reasonably be expected to constitute an inability to practice the healing arts with reasonable skill and safety to patients or unprofessional conduct as defined in K.S.A. 65-2837, and amendments thereto.

(c) The licensee has been convicted of a felony or class A misdemeanor, or substantially similar offense in another jurisdiction, whether or not related to the practice of the healing arts. The licensee has been convicted in a special or general court-martial, whether or not related to the practice of the healing arts. The board shall revoke a licensee's license following conviction of a felony or substantially similar offense in another jurisdiction, or following conviction in a general court-martial occurring after July 1, 2000, unless a 2/3 majority of the board members present and voting determine by clear and convincing evidence that such licensee will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust. In the case of a person who has been convicted of a felony or convicted in a general court-martial and who applies for an original license or to reinstate a canceled license, the application for a license shall be denied unless a 2/3 majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.

(d) The licensee has used fraudulent or false advertisements.

(e) The licensee is addicted to or has distributed intoxicating liquors or drugs for any other than lawful purposes.

(f) The licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.

(g) The licensee has unlawfully invaded the field of practice of any branch of the healing arts in which the licensee is not licensed to practice.

(h) The licensee has engaged in the practice of the healing arts under a false or assumed name, or the impersonation of another practitioner. The provisions of this subsection relating to an assumed name shall not apply to licensees practicing under a professional corporation or other legal entity duly authorized to provide such professional services in the state of Kansas.

(i) The licensee's ability to practice the healing arts with reasonable skill and safety to patients is impaired by reason of physical or mental

illness, or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery by or release to any person or entity outside of a board proceeding.

(j) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, ~~a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.~~

(k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

(l) The licensee has failed to report or reveal the knowledge required to be reported or revealed under K.S.A. 65-28,122, and amendments thereto.

(m) The licensee, if licensed to practice medicine and surgery, has failed to inform in writing a patient suffering from any form of abnormality of the breast tissue for which surgery is a recommended form of treatment, of alternative methods of treatment recognized by licensees of the same profession in the same or similar communities as being acceptable under like conditions and circumstances.

(n) The licensee has cheated on or attempted to subvert the validity of the examination for a license.

(o) The licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction.

(p) The licensee has prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes.

(q) The licensee has violated a federal law or regulation relating to controlled substances.

(r) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

(s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(t) The licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or

conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(u) The licensee has surrendered a license or authorization to practice the healing arts in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(v) The licensee has failed to report to the board surrender of the licensee's license or authorization to practice the healing arts in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(w) The licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(x) The licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(y) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a, and amendments thereto.

(z) The licensee has failed to pay the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

(aa) The licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(bb) The licensee as the supervising physician for a physician assistant has failed to adequately direct and supervise the physician assistant in accordance with the physician assistant licensure act or rules and regulations adopted under such act.

(cc) The licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. ~~2013~~ 2014 Supp. 21-5407, and amendments thereto, as established by any of the following:

~~(A)~~(1) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. ~~2013~~ 2014 Supp. 21-5407, and amendments thereto.

~~(B)~~(2) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto.

~~(c)~~(3) A copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

(dd) The licensee has given a worthless check or stopped payment on a debit or credit card for fees or moneys legally due to the board.

(ee) The licensee has knowingly or negligently abandoned medical records.

Sec. 6. On and after July 1, 2015, K.S.A. 65-2852, as amended by section 21 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2852. The following fees shall be established by the board by rules and regulations and collected by the board:

(a) For a license, issued upon the basis of an examination, in a sum of not more than \$300;

(b) for a license, issued without examination and by endorsement, in a sum of not more than \$300;

(c) for a license, issued upon a certificate from the national boards, in a sum of not more than \$300;

(d) for the renewal of a license, the sum of not more than \$500;

(e) for a temporary permit, in a sum of not more than \$60;

(f) for an institutional license, in a sum of not more than \$300;

(g) for a visiting professor temporary license, in a sum of not more than \$50;

(h) for a certified statement from the board that a licensee is licensed in this state, the sum of not more than \$30;

(i) for any copy of any license issued by the board, the sum of not more than \$30;

(j) for any examination given by the board, a sum in an amount equal to the cost to the board of the examination;

(k) for application for and issuance of a special permit under K.S.A. 65-2811a, and amendments thereto, the sum of not more than \$60;

(l) for an exempt or inactive license or renewal of an exempt or inactive license, the sum of not more than \$150;

(m) for conversion of an exempt or inactive license to a license to practice the healing arts, the sum of not more than \$300;

(n) for reinstatement of a revoked license, in a sum of not more than \$1,000;

(o) *for reinstatement of a canceled license, in a sum of not more than \$500;*

(p) for a visiting clinical professor license, or renewal of a visiting clinical professor license, in a sum of not more than \$300;

~~(p)~~(q) for a postgraduate permit in a sum of not more than \$60;

~~(q)~~(r) for a limited permit or renewal of a limited permit, the sum of not more than \$60; ~~and~~

~~(r)~~(s) for a written verification of any license or permit, the sum of not more than \$25;

(t) *for a reentry active license or renewal of a reentry active license, the sum of not more than \$500; and*

(u) *for a resident active license, the sum of not more than \$500.*

Sec. 7. On and after July 1, 2015, K.S.A. 2013 Supp. 65-2895, as amended by section 36 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2895. (a) There is hereby created an institutional license which may be issued by the board to a person who:

(1) Is a graduate of an accredited school of medicine or osteopathic medicine or a school which the graduates have been licensed in another state or states which have standards similar to Kansas;

(2) has completed at least two years in a postgraduate training program in the United States approved by the board; and

(3) who is employed as provided in this section.

(b) Subject to the restrictions of this section, the institutional license shall confer upon the holder the right and privilege to practice medicine and surgery and shall obligate the holder to comply with all requirements of such license.

(c) The practice privileges of institutional license holders are restricted and shall be valid only during the period in which:

(1) The holder is employed by any institution within the Kansas department for aging and disability services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the Kansas department for aging and disability services or the department of corrections with a third party, and only within the institution to which the holder is assigned; and

(2) the holder has been employed for at least three years as described in subsection (c)(1) and is employed to provide mental health services in Kansas in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a contractor of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, and whose practice, in any such employment, is limited to providing mental health services, is a part of the duties of such licensee's paid position and is performed solely on behalf of the employer.

(d) An institutional license shall ~~expire~~ *be canceled* on the date established by rules and regulations of the board which may provide for renewal throughout the year on a continuing basis. In each case in which an institutional license is renewed for a period of time of more or less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-2852, and amendments thereto. The request for renewal

shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the ~~expiration~~ *renewal* date of the license. An institutional license may be renewed for an additional one-year period if the applicant for renewal meets the requirements under subsection (c), has submitted an application for renewal on a form provided by the board, has paid the renewal fee established by rules and regulations of the board of not to exceed \$500 and has submitted evidence of satisfactory completion of a program of continuing education required by the board. In addition, an applicant for renewal who is employed as described in subsection (c)(1) shall submit with the application for renewal a recommendation that the institutional license be renewed signed by the superintendent of the institution to which the institutional license holder is assigned.

(e) Nothing in this section shall prohibit any person who was issued an institutional license prior to the effective date of this section from having the institutional license reinstated by the board if the person meets the requirements for an institutional license described in subsection (a).

(f) This section shall be a part of and supplemental to the Kansas healing arts act.

Sec. 8. On and after July 1, 2015, K.S.A. 2013 Supp. 65-28,127, as amended by section 40 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-28,127. (a) Every supervising or responsible licensee who directs, supervises, orders, refers, accepts responsibility for, enters into written agreements or practice protocols with, or who delegates acts which constitute the practice of the healing arts to other persons shall:

(1) Be actively engaged in the practice of the healing arts in Kansas;

(2) review and keep current any required written agreements or practice protocols between the supervising or responsible licensee and such persons, as may be determined by the board;

(3) direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to such persons only those acts and functions which the supervising or responsible licensee knows or has reason to believe can be competently performed by such person and is not in violation of any other statute or regulation;

(4) direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the supervising or responsible licensee;

(5) provide for a qualified, substitute licensee who accepts responsibility for the direction, supervision, delegation and written agreements or practice protocols with such persons when the supervising or responsible licensee is temporarily absent; and

(6) comply with all rules and regulations of the board establishing

limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(b) “Responsible licensee” means a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic who has accepted responsibility for the actions of persons who perform acts pursuant to written agreements or practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee.

(c) Except as otherwise provided by rules and regulations of the board implementing this section, the physician assistant licensure act shall govern the direction and supervision of physician assistants by persons licensed by the state board of healing arts to practice medicine and surgery.

(d) Nothing in subsection (a)(4) shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing anesthesia care by a registered nurse anesthetist pursuant to K.S.A. 65-1158, and amendments thereto.

(e) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing physical therapy services pursuant to K.S.A. 65-2901 et seq., and amendments thereto.

(f) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from entering into a co-management relationship with an optometrist pursuant to K.S.A. 65-1501 et seq., and amendments thereto.

(g) The board may adopt rules and regulations establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(h) As used in this section, “supervising physician” ~~means a physician who has accepted continuous and ultimate responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the supervising physician~~ shall have the meaning ascribed thereto in K.S.A. 65-28a02, and amendments thereto.

(i) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 9. On and after July 1, 2015, K.S.A. 65-28a02, as amended by section 42 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-28a02. (a) The following words and phrases when used in the physician assistant licensure act shall have the meanings respectively ascribed to them in this section:

(1) “Board” means the state board of healing arts.

(2) “Direction and supervision” means the guidance, direction and coordination of activities of a physician assistant by such physician assistant’s supervising physician, whether written or verbal, whether imme-

ciate or by prior arrangement, in accordance with standards established by the board by rules and regulations, which standards shall be designed to ensure adequate direction and supervision by the supervising physician of the physician assistant. The term “direction and supervision” shall not be construed to mean that the immediate or physical presence of the supervising physician is required during the performance of the physician assistant.

(3) “Physician” means any person licensed by the state board of healing arts to practice medicine and surgery.

(4) “Physician assistant” means a person who is licensed in accordance with the provisions of K.S.A. 65-28a04, and amendments thereto, and who provides patient services under the direction and supervision of a supervising physician.

(5) “Supervising physician” means *prior to January 11, 2016, a responsible physician and on and after January 11, 2016, a physician who has accepted responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the supervising physician.*

(6) “*Responsible physician*” means *a physician who has accepted continuous and ultimate responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the responsible physician.*

(7) “Licensee,” for purposes of the physician assistant licensure act, means all persons issued a license or temporary license pursuant to the physician assistant licensure act.

~~(7)~~(8) “License,” for purposes of the physician assistant licensure act, means any license or temporary license granted by the physician assistant licensure act.

(9) “Agreement” means, *prior to January 11, 2016, protocol and on and after January 11, 2016, agreement.*

(b) *Prior to January 11, 2016, wherever the term “supervising physician” in connection with the term “physician assistant,” or words of like effect, appears in any statute, contract or other document, it shall mean responsible physician as defined in subsection (a)(6). On and after January 11, 2016, such term shall mean supervising physician as defined in subsection (a)(5).*

Sec. 10. On and after July 1, 2015, K.S.A. 2013 Supp. 65-28a03, as amended by section 43 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-28a03. (a) There is hereby created a designation of active license. The board is authorized to issue an active license to a physician assistant who makes written application for such license on a form provided by the board and remits the fee for an active license established pursuant to subsection ~~(f)~~ (h). As a condition of engaging in active practice as a physician assistant, each licensed physician

assistant shall file a request to engage in active practice signed by the physician assistant and the physician who will be responsible for the physician assistant. The request shall contain such information as required by rules and regulations adopted by the board. The board shall maintain a list of the names of physician assistants who may engage in active practice in this state.

(b) All licenses, except temporary licenses, shall ~~expire~~ *be canceled* on the date of ~~expiration~~ *cancellation* established by rules and regulations of the board and may be renewed as required by the board. The request for renewal shall be on a form provided by the board and shall be accompanied by the renewal fee established pursuant to this section, which shall be paid not later than the ~~expiration~~ *renewal* date of the license. The board, prior to renewal of an active license, shall require the licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments thereto, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

(c) At least 30 days before the ~~expiration~~ *renewal date* of the license of a physician assistant, except a temporary license, the board shall notify the licensee of the ~~expiration~~ *renewal date* by mail addressed to the licensee's last mailing address as noted upon the office records of the board. If the licensee fails to *submit the renewal application and* pay the renewal fee by the ~~date of expiration~~ *renewal date* of the license, the licensee shall be given ~~a second~~ *notice that the licensee's license has expired* *licensee has failed to pay the renewal fee by the renewal date of the license* and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the 30-day period following the ~~date of expiration~~ *renewal date* and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law without further proceedings for failure to renew and shall be reissued only after the license has been reinstated under subsection (d).

(d) Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.

(e) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to subsection ~~(f)~~ *(h)* of this section. The board may issue an inactive license only to a person who meets all the requirements for a license to practice as a phy-

sician assistant and who does not engage in active practice as a physician assistant in the state of Kansas. An inactive license shall not entitle the holder to engage in active practice. The provisions of subsections (c) and (d) of this section relating to ~~expiration~~ *cancellation*, renewal and reinstatement of a license shall be applicable to an inactive license issued under this subsection. Each inactive licensee may apply to engage in active practice by presenting a request required by subsection (a) and submit to the board evidence satisfactory to the board that such licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments thereto, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto. The request shall contain such information as required by rules and regulations adopted by the board. The request shall be accompanied by the fee established pursuant to subsection ~~(f)~~ (h).

(f)(1) *There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensed physician assistant who makes written application for such license on a form provided by the board and remits the same fee required for a federally active license established under subsection (h). The board may issue a federally active license only to a person who meets all of the requirements for a license to practice as a physician assistant in Kansas and who practices as a physician assistant solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies. A person issued a federally active license may engage in limited practice outside of the course of federal employment consistent with the scope of practice of exempt licensees under subsection (g), except that the scope of practice of a federally active licensee shall be limited to the following: (A) Performing administrative functions, including peer review, disability determinations, utilization review and expert opinions; (B) providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation except that nothing in this subsection (f)(1)(B) shall prohibit a physician assistant issued a federally active license from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing such services; and (C) rendering professional services as a charitable health care provider as defined in K.S.A. 75-6102, and amendments thereto.*

(2) *The provisions of subsections (c) and (d) of this section relating to continuing education, cancellation, renewal and reinstatement of a license shall be applicable to a federally active license issued under this subsection.*

(3) *A person who practices under a federally active license shall not be deemed to be rendering professional service as a health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.*

(g)(1) *There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensed physician*

*assistant who makes written application for such license on a form provided by the board and remits the fee for an exempt license established under subsection (h). The board may issue an exempt license to a person who is not regularly engaged in physician assistant practice in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges of a physician assistant for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the physician assistant licensure act, except as otherwise provided in this subsection (g). The holder of an exempt license may be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees under this section shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of a physician assistant upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the active license fee established pursuant to subsection (h).*

(2) *For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice as a physician assistant within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice as a physician assistant or engaged in a formal educational program since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.*

(3) *Nothing in this subsection (g) shall be construed to prohibit a person holding an exempt license from serving as a paid employee of: (A) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (B) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.*

(h) *The following fees shall be fixed by rules and regulations adopted by the state board of healing arts and shall be collected by the board:*

(1) *For an active license as a physician assistant, the sum of not more than \$200;*

(2) *for any license by endorsement as a physician assistant, the sum of not more than \$200;*

(3) *for temporary licensure as a physician assistant, the sum of not more than \$30;*

(4) *for the renewal of an active license to practice as a physician assistant, the sum of not more than \$150;*

(5) *for renewal of an inactive license, the sum of not more than \$150;*

(6) for the late renewal of any license as a physician assistant, the sum of not more than \$250;

(7) for reinstatement of a license canceled for failure to renew, the sum of not more than \$250;

(8) for a certified statement from the board that a physician assistant is licensed in this state, the sum of not more than \$30;

(9) *for a federally active license, the sum of not more than \$200;*

(10) *for the exempt license, the sum of not more than \$150;*

(11) for a copy of the licensure certificate of a physician assistant, the sum of not more than \$25; and

~~(10)~~(12) for conversion of an inactive license to an active license to actively practice as a physician assistant, the sum of not more than \$150.

~~(g)~~(i) The board shall remit all moneys received by or for the board under the provisions of this act to the state treasurer and such money shall be deposited in the state treasury, credited to the state general fund and the healing arts fee fund and expended all in accordance with K.S.A. 65-2855, and amendments thereto.

~~(h)~~(j) The board may promulgate all necessary rules and regulations for carrying out the provisions of this act.

Sec. 11. On and after July 1, 2015, K.S.A. 65-28a08, as amended by section 47 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-28a08. (a) The practice of a physician assistant shall include medical services within the education, training and experience of the physician assistant that are delegated by the supervising physician. Physician assistants practice in a dependent role with a supervising physician, and may perform those duties and responsibilities through delegated authority or written agreement. Medical services rendered by physician assistants may be performed in any setting authorized by the supervising physician, including, but not limited to, clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes and other medical institutions.

(b) (1) A person licensed as a physician assistant may perform, only under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the physician responsible for the physician assistant and only to the extent such acts are consistent with rules and regulations adopted by the board which relate to acts performed by a physician assistant under the supervising physician's direction and supervision. A physician assistant may prescribe drugs pursuant to a written agreement as authorized by the supervising physician.

(2) *On and after January 11, 2016*, a physician assistant, when authorized by a supervising physician, may dispense prescription-only drugs:

(A) In accordance with rules and regulations adopted by the board governing prescription-only drugs;

(B) when dispensing such prescription-only drugs is in the best interests of the patient and pharmacy services are not readily available; and

(C) if such prescription-only drugs do not exceed the quantity necessary for a 72-hour supply.

(c) Before a physician assistant shall perform under the direction and supervision of a supervising physician, such physician assistant shall be identified to the patient and others involved in providing the patient services as a physician assistant to the supervising physician. Physician assistants licensed under the provisions of this act shall keep such person's license available for inspection at their primary place of business. A physician assistant may not perform any act or procedure performed in the practice of optometry except as provided in K.S.A. 65-1508 and 65-2887, and amendments thereto.

(d) (1) The board shall adopt rules and regulations *to be effective January 11, 2016*, governing the practice of physician assistants, including the delegation, direction and supervision responsibilities of a supervising physician. Such rules and regulations shall establish conditions and limitations as the board determines to be necessary to protect the public health and safety, and may include a limit upon the number of physician assistants that a supervising physician is able to safely and properly supervise. In developing rules and regulations relating to the practice of physician assistants, the board shall take into consideration the amount of training and capabilities of physician assistants, the different practice settings in which physician assistants and supervising physicians practice, the needs of the geographic area of the state in which the physician assistant and the supervising physician practice and the differing degrees of direction and supervision by a supervising physician appropriate for such settings and areas.

(2) The board shall adopt rules and regulations governing the prescribing of drugs by physician assistants and the responsibilities of the supervising physician with respect thereto. Such rules and regulations shall establish such conditions and limitations as the board determines to be necessary to protect the public health and safety. In developing rules and regulations relating to the prescribing of drugs by physician assistants, the board shall take into consideration the amount of training and capabilities of physician assistants, the different practice settings in which physician assistants and supervising physicians practice, the degree of direction and supervision to be provided by a supervising physician and the needs of the geographic area of the state in which the supervising physician's physician assistant and the supervising physician practice. In all cases in which a physician assistant is authorized to prescribe drugs by a supervising physician, a written agreement between the supervising physician and the physician assistant containing the essential terms of such authorization shall be in effect. Any written prescription order shall include the name, address and telephone number of the supervising phy-

sician. In no case shall the scope of the authority of the physician assistant to prescribe drugs exceed the normal and customary practice of the supervising physician in the prescribing of drugs.

(e) The physician assistant may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written agreement as authorized by the supervising physician. In order to prescribe or dispense controlled substances, the physician assistant shall register with the federal drug enforcement administration.

(f) As used in this section, “drug” means those articles and substances defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

(g) *Prior to January 11, 2016, the board shall limit the number of physician assistants a responsible physician may supervise at any one time to the equivalent of two full-time physician assistants as approved in each case by the board. Any limitation on the number of physician assistants in this subsection shall not apply to services performed in a medical care facility, as defined in K.S.A. 65-425, and amendments thereto. The provisions of this subsection shall expire on January 11, 2016.*

Sec. 12. On and after July 1, 2015, K.S.A. 65-2857, as amended by section 22 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2857. An action in injunction or quo warranto may be brought and maintained in the name of the state of Kansas to enjoin or oust from the unlawful practice of any profession regulated by the board or any profession defined by the practice acts administered by the board *a person practicing such profession* without being duly licensed therefor.

Sec. 13. On and after July 1, 2015, K.S.A. 65-2860, as amended by section 24 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2860. Any person who ~~shall present~~ *presents* to the board a diploma or certificate of which such person is not the rightful owner for the purpose of procuring a license, or who ~~shall~~ *impersonate* ~~impersonate~~ *impersonates* anyone to whom a license, registration, permit or certificate has been issued by the board. ~~Violation of this section is guilty of~~ an unclassified nonperson felony. In addition, violation of this section may render the violator liable for a civil penalty, as well as reasonable costs of investigation and prosecution, unless otherwise specified.

Sec. 14. On and after July 1, 2015, K.S.A. 2013 Supp. 65-4101, as amended by section 50 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-4101. As used in this act: (a) “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(1) A practitioner or pursuant to the lawful direction of a practitioner;  
or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman.

(c) “Application service provider” means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) “Board” means the state board of pharmacy.

(e) “Bureau” means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

(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) (1) “Controlled substance analog” means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, which such individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) “Controlled substance analog” does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is permitted by the exemption.

(h) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other

than the person who in fact manufactured, distributed or dispensed the substance.

(i) “Cultivate” means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(j) “DEA” means the U.S. department of justice, drug enforcement administration.

(k) “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(l) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.

(m) “Dispenser” means a practitioner or pharmacist who dispenses, or a physician assistant who has authority to dispense prescription-only drugs in accordance with ~~subsection (b)~~ of K.S.A. 65-28a08(b), and amendments thereto.

(n) “Distribute” means to deliver other than by administering or dispensing a controlled substance.

(o) “Distributor” means a person who distributes.

(p) “Drug” means: (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in ~~clause~~ *paragraph* (1), (2) or (3) of this subsection. It does not include devices or their components, parts or accessories.

(q) “Immediate precursor” means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(r) “Electronic prescription” means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(s) “Electronic prescription application” means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber’s computers and servers where access and records are controlled by the prescriber.

(t) “Electronic signature” means a confidential personalized digital

key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(u) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(v) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

(w) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(x) "Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(y) "Isomer" means all enantiomers and diastereomers.

(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

(aa) "Marijuana" means all parts of all varieties of the plant *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mix-

ture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

(bb) “Medical care facility” shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.

(cc) “Mid-level practitioner” means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs *prior to January 11, 2016*, pursuant to a written protocol *with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016, pursuant to a written agreement* with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

(dd) “Narcotic drug” means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in ~~clause~~ *paragraph (1)* but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(ee) “Opiate” means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(ff) “Opium poppy” means the plant of the species *Papaver somniferum* l. except its seeds.

(gg) “Person” means an individual, corporation, government, or gov-

ernmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(hh) “Pharmacist” means any natural person licensed under K.S.A. 65-1625 et seq., *and amendments thereto*, to practice pharmacy.

(ii) “Pharmacist intern” means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving such person’s internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who had successfully passed equivalency examinations approved by the board.

(jj) “Pharmacy prescription application” means software that is used to process prescription information, is installed on a pharmacy’s computers and servers, and is controlled by the pharmacy.

(kk) “Poppy straw” means all parts, except the seeds, of the opium poppy, after mowing.

(ll) “Practitioner” means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

(mm) “Prescriber” means a practitioner or a mid-level practitioner.

(nn) “Production” includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(oo) “Readily retrievable” means that records kept by automatic data processing applications or other electronic or mechanized recordkeeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(pp) “Ultimate user” means a person who lawfully possesses a controlled substance for such person’s own use or for the use of a member of such person’s household or for administering to an animal owned by such person or by a member of such person’s household.

Sec. 15. On and after July 1, 2015, K.S.A. 65-4941 is hereby amended to read as follows: 65-4941. As used in this act:

(a) “Cardiopulmonary resuscitation” means chest compressions, assisted ventilations, intubation, defibrillation, administration of cardiotoxic medications or other medical procedure which is intended to restart breathing or heart functioning;

(b) “do not resuscitate” directive or “DNR directive” means a witnessed document in writing, voluntarily executed by the declarant in accordance with the requirements of this act;

(c) “do not resuscitate order” or “DNR order” means instruction by

the physician *or physician assistant* who is responsible for the care of the patient while admitted to a medical care facility licensed pursuant to K.S.A. 65-429, and amendments thereto, or an adult care home licensed pursuant to K.S.A. 39-928, and amendments thereto;

(d) “health care provider” means a health care provider as that term is defined by K.S.A. 65-4915, and amendments thereto;

(e) “DNR identifier” means a medallion or bracelet designed to be worn by a patient which has been inscribed to identify the patient and contains the letters “DNR” or the statement “do not resuscitate” when such DNR identifier is distributed by an entity certified by the emergency medical services board;

(f) “physician” means a person licensed to practice medicine and surgery by the state board of healing arts; ~~and~~

(g) “*physician assistant*” means a person licensed by the state board of healing arts to practice as a physician assistant; and

(h) “declarant” means any person who has executed a “do not resuscitate” directive in accordance with the provisions of this act.

New Sec. 16. (a) There is hereby created a resident active license, which may be issued by the board to a person who:

(1) Makes written application for such license on a form provided by the board and remits the fee for a resident active license established by the board by rules and regulations;

(2) has successfully completed at least one year of approved postgraduate training;

(3) is engaged in a full-time, approved postgraduate training program; and

(4) has passed the examinations for licensure required under K.S.A. 65-2873, and amendments thereto.

(b) The requirements for issuance, maintenance and renewal of a resident active license shall be established by rules and regulations adopted by the board. A resident active license shall entitle the holder to all privileges attendant to the branch of the healing arts for which such license is used.

(c) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 17. On and after July 1, 2015, K.S.A. 65-4942 is hereby amended to read as follows: 65-4942. A “do not resuscitate” directive shall be in substantially the following form:

PRE-HOSPITAL DNR REQUEST FORM  
An advanced request to Limit the Scope of  
Emergency Medical Care

I, \_\_\_\_\_, request limited emergency care as herein described.  
(Name)

I understand DNR means that if my heart stops beating or if I stop

breathing, no medical procedure to restart breathing or heart functioning will be instituted.

I understand this decision will not prevent me from obtaining other emergency medical care by pre-hospital care providers or medical care directed by a physician prior to my death.

I understand I may revoke this directive at any time.

I give permission for this information to be given to the pre-hospital care providers, doctors, nurses or other health care personnel as necessary to implement this directive.

I hereby agree to the "Do Not Resuscitate" (DNR) directive.

Signature	Date
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Witness	Date
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I AFFIRM THIS DIRECTIVE IS THE EXPRESSED WISH OF THE PATIENT, IS MEDICALLY APPROPRIATE, AND IS DOCUMENTED IN THE PATIENT'S PERMANENT MEDICAL RECORD.

In the event of an acute cardiac or respiratory arrest, no cardiopulmonary resuscitation will be initiated.

Attending Physician's or <i>Physician Assistant's</i> Signature*	Date
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Address	Facility or Agency Name
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\*Signature of physician or *physician assistant* not required if the above-named is a member of a church or religion which, in lieu of medical care and treatment, provides treatment by spiritual means through prayer alone and care consistent therewith in accordance with the tenets and practices of such church or religion.

REVOCATION PROVISION  
I hereby revoke the above declaration.

Signature	Date
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Sec. 18. On and after July 1, 2015, K.S.A. 2014 Supp. 65-6824 is hereby amended to read as follows: 65-6824. (a) A covered entity shall provide an individual or such individual's personal representative with access to the individual's protected health information maintained, collected, used or disseminated by or for the covered entity in compliance with 45 C.F.R. § 164.524, *except that a covered entity which is defined as a health care provider under section 20, and amendments thereto, shall furnish copies of health care records to a patient, a patient's authorized representative or any other person or entity authorized by law to obtain*

*or reproduce such records in accordance with the provisions of section 20, and amendments thereto.*

(b) A covered entity shall implement and maintain appropriate administrative, technical and physical safeguards to protect the privacy of protected health information in a manner consistent with 45 C.F.R. § 164.530(c).

Sec. 19. On and after July 1, 2015, K.S.A. 2013 Supp. 72-8252, as amended by section 54 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 72-8252. (a) As used in this section:

(1) “Medication” means a medicine prescribed by a health care provider for the treatment of anaphylaxis or asthma including, but not limited to, any medicine defined in section 201 of the federal food, drug and cosmetic act, inhaled bronchodilators and auto-injectible epinephrine.

(2) “Health care provider” means: (A) A physician licensed to practice medicine and surgery; (B) an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs as provided by K.S.A. 65-1130, and amendments thereto; or (C) a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs *prior to January 11, 2016, pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016, pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.*

(3) “School” means any public or accredited nonpublic school.

(4) “Self-administration” means a student’s discretionary use of such student’s medication pursuant to a prescription or written direction from a health care provider.

(b) Each school district shall adopt a policy authorizing the self-administration of medication by students enrolled in kindergarten or any of the grades ~~1~~ *one* through 12. A student shall meet all requirements of a policy adopted pursuant to this subsection. Such policy shall include:

(1) A requirement of a written statement from the student’s health care provider stating the name and purpose of the medication; the prescribed dosage; the time the medication is to be regularly administered, and any additional special circumstances under which the medication is to be administered; and the length of time for which the medication is prescribed;

(2) a requirement that the student has demonstrated to the health care provider or such provider’s designee and the school nurse or such nurse’s designee the skill level necessary to use the medication and any device that is necessary to administer such medication as prescribed. If there is no school nurse, the school shall designate a person for the purposes of this subsection;

(3) a requirement that the health care provider has prepared a written

treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours;

(4) a requirement that the student's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan prepared as required by paragraph (3) and documents related to liability;

(5) a requirement that all teachers responsible for the student's supervision shall be notified that permission to carry medications and self-medicate has been granted; and

(6) any other requirement imposed by the school district pursuant to this section and ~~subsection (e) of K.S.A. 72-8205(e)~~, and amendments thereto.

(c) A school district shall require annual renewal of parental authorization for the self-administration of medication.

(d) A school district, and its officers, employees and agents, which authorizes the self-administration of medication in compliance with the provisions of this section shall not be held liable in any action for damage, injury or death resulting directly or indirectly from the self-administration of medication.

(e) A school district shall provide written notification to the parent or guardian of a student that the school district and its officers, employees and agents are not liable for damage, injury or death resulting directly or indirectly from the self-administration of medication. The parent or guardian of the student shall sign a statement acknowledging that the school district and its officers, employees or agents incur no liability for damage, injury or death resulting directly or indirectly from the self-administration of medication and agreeing to release, indemnify and hold the school and its officers, employees and agents, harmless from and against any claims relating to the self-administration of such medication.

(f) A school district shall require that any back-up medication provided by the student's parent or guardian be kept at the student's school in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

(g) A school district shall require that information described in ~~paragraphs (3) and (4) of subsection (b)(3) and (4)~~ be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

(h) An authorization granted pursuant to subsection (b) shall allow a student to possess and use such student's medication at any place where a student is subject to the jurisdiction or supervision of the school district or its officers, employees or agents.

(i) A board of education may adopt a policy pursuant to ~~subsection (e) of K.S.A. 72-8205(e)~~, and amendments thereto, which:

(1) Imposes requirements relating to the self-administration of medication which are in addition to those required by this section; and

(2) establishes a procedure for, and the conditions under which, the authorization for the self-administration of medication may be revoked.

New Sec. 20. (a) As used in this section: (1) “Health care provider” means any person licensed by the state board of healing arts.

(2) “Authorized representative” means the person designated in writing by the patient to obtain the health care records of the patient or the person otherwise authorized by law to obtain the health care records of the patient.

(3) “Authorization” means a written or printed document signed by a patient or a patient’s authorized representative containing: (A) A description of the health care records a health care provider is authorized to produce; (B) the patient’s name, address and date of birth; (C) a designation of the person or entity authorized to obtain copies of the health care records; (D) a date or event upon which the force of the authorization shall expire which shall not exceed one year; (E) if signed by a patient’s authorized representative, the authorized representative’s name, address, telephone number and relationship or capacity to the patient; and (F) a statement setting forth the right of the person signing the authorization to revoke it in writing.

(b) Subject to K.S.A. 2014 Supp. 65-6824, and amendments thereto, except as otherwise provided herein, copies of health care records shall be furnished to a patient, a patient’s authorized representative or any other person or entity authorized by law to obtain or reproduce such records, within 30 days of the receipt of the authorization, or the health care provider shall notify the patient or the patient’s authorized representative of the reasons why copies are not available. A health care provider may withhold copies of health care records if the health care provider reasonably believes that providing copies of the requested records will cause substantial harm to the patient or another person. Health care providers may condition the furnishing of the patient’s health care records to the patient, the patient’s authorized representative or any other person or entity authorized by law to obtain or reproduce such records, upon the payment of charges not to exceed those established and updated not less than every two years by rules and regulations adopted by the state board of healing arts. In establishing such charges, the board shall consider changes in the all-items consumer price index published by the United States department of labor. Providers may charge for the reasonable cost of all duplications of health care record information which cannot be routinely duplicated on a standard photocopy machine.

(c) Any health care provider, patient, authorized representative or any other entity authorized by law to obtain or reproduce such records may bring a claim or action to enforce the provisions of this section. The petition shall include an averment that the party bringing the action has in good faith conferred or attempted to confer with the other party con-

cerning the matter in dispute without court action. Upon a showing that the failure to comply with this section was without just cause or excuse, the court shall award the costs of the action and order the records produced without cost or expense to the prevailing party.

(d) Nothing in this section shall be construed to prohibit the state board of healing arts from adopting and enforcing rules and regulations not inconsistent with this section that require licensees of the board to furnish health care records to patients or to their authorized representative. To the extent that the board determines that an administrative disciplinary remedy is appropriate for violation of such rules and regulations, that remedy is separate from and in addition to the provisions of this section.

Sec. 21. On July 1, 2015, K.S.A. 65-2811a, 65-2852, as amended by section 21 of chapter 131 of the 2014 Session Laws of Kansas, 65-2857, as amended by section 22 of chapter 131 of the 2014 Session Laws of Kansas, 65-2860, as amended by section 24 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a02, as amended by section 42 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a08, as amended by section 47 of chapter 131 of the 2014 Session Laws of Kansas, 65-4941 and 65-4942 and K.S.A. 2013 Supp. 65-1626, as amended by section 4 of chapter 131 of the 2014 Session Laws of Kansas, 65-2809, as amended by section 7 of chapter 131 of the 2014 Session Laws of Kansas, 65-2836, as amended by section 10 of chapter 131 of the 2014 Session Laws of Kansas, 65-2895, as amended by section 36 of chapter 131 of the 2014 Session Laws of Kansas, 65-28,127, as amended by section 40 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a03, as amended by section 43 of chapter 131 of the 2014 Session Laws of Kansas, 65-4101, as amended by section 50 of chapter 131 of the 2014 Session Laws of Kansas and 72-8252, as amended by section 54 of chapter 131 of the 2014 Session Laws of Kansas and K.S.A. 2014 Supp. 65-6824 are hereby repealed.

Sec. 22. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 7, 2015.

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## CHAPTER 47

## HOUSE BILL No. 2013

AN ACT concerning motor vehicles; relating to registration of vehicles, penalties, evidence of renewal; commercial drivers' licenses, examination fees, commercial driver's license drive test fee fund; amending K.S.A. 8-143e and K.S.A. 2014 Supp. 8-142 and 8-240 and repealing the existing sections.

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

New Section 1. There is hereby created in the state treasury the commercial driver's license drive test fee fund. All moneys credited to the commercial driver's license drive test fee fund shall be used by the department of revenue only for the purposes of funding the administration and operation of the commercial driver's license drive test, including software maintenance and enhancement, equipment maintenance and purchase, acquisition and maintenance of one or more test tracks or courses for conducting a driving test, training and marketing associated with the operations for the division of vehicles regarding the issuance of commercial driver's licenses. All expenditures from the commercial driver's license drive test 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.

New Sec. 2. The division of vehicles shall remit the commercial driver's license drive test fees received by the division under K.S.A. 8-240(a)(1), 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 and credit such fees to the commercial driver's license drive test fee fund. Moneys credited to the commercial driver's license drive test fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund or other special revenue fund appropriations to the Kansas department of revenue.

Sec. 3. K.S.A. 2014 Supp. 8-142 is hereby amended to read as follows: 8-142. It shall be unlawful for any person to commit any of the following acts and except as otherwise provided, violation is subject to penalties provided in K.S.A. 8-149, and amendments thereto:

*First:* To operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle, as defined in K.S.A. 8-126, and amendments thereto, which is not registered, or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the division for the current registration year, including any registration decal required to be affixed to any such license plate pursuant to K.S.A. 8-134,

and amendments thereto, subject to the exemptions allowed in K.S.A. 8-135, 8-198 and 8-1751a, and amendments thereto. A violation of this ~~First subsection~~ by a person unlawfully claiming that a motor vehicle is exempt from registration as a self-propelled crane under ~~subsection (b)~~ of K.S.A. 8-128(b), and amendments thereto, shall constitute an unclassified misdemeanor punishable by a fine of not less than \$500. *A person shall not be charged with a violation of this subsection for failing to display a registration decal on any vehicle except those included under K.S.A. 8-1,101 and K.S.A. 2014 Supp. 8-143m and 8-1,152, and amendments thereto, up to and including the 10th day following the expiration of the registration if the person is able to produce a printed payment receipt or electronic payment receipt from an online electronic payment processing system for the current 12-month registration period. Any charge for failing to display a registration decal up to and including the 10th day following the expiration of the registration shall be dismissed if the person produces in court a registration receipt for the current 12-month registration period which was valid at the time of arrest.*

*Second:* To display or cause or permit to be displayed, or to have in possession, any registration receipt, certificate of title, registration license plate, registration decal, accessible parking placard or accessible parking identification card knowing the same to be fictitious or to have been canceled, revoked, suspended or altered. A violation of this ~~part Second subsection~~ shall constitute an unclassified misdemeanor punishable by a fine of not less than \$100 and forfeiture of the item. A mandatory court appearance shall be required of any person violating this ~~part Second subsection~~. This ~~part Second subsection~~ shall not apply to the possession of: (a) Model year license plates displayed on antique vehicles as allowed under K.S.A. 8-172, and amendments thereto; or (b) distinctive license plates allowed under K.S.A. 8-1,147, and amendments thereto.

*Third:* To lend to or knowingly permit the use by one not entitled thereto any registration receipt, certificate of title, registration license plate or registration decal issued to the person so lending or permitting the use thereof.

*Fourth:* To fail or refuse to surrender to the division, upon demand, any registration receipt, certificate of title, registration license plate or registration decal which has been suspended, canceled or revoked.

*Fifth:* To use a false or fictitious name or address in any application for a certificate of title, the registration of any vehicle or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application.

*Sixth:* For the owner of a motor vehicle to file application for the registration thereof, in any county other than the county in which the owner of the vehicle resides or has a bona fide place of business, which place is

not an office or facility established or maintained solely for the purpose of obtaining registration.

*Seventh:* To operate on the highways of this state a vehicle or combination of vehicles whose weight with cargo is in excess of the gross weight for which the truck or truck tractor propelling the same is registered, except as provided by K.S.A. 8-143, and amendments thereto, and ~~subsections (a) to (f), inclusive, of K.S.A. 8-1911(a) through (f), and amendments thereto.~~ Such gross weight shall not be required to 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 is a part. Any person or owner who operates a vehicle in this state with a registration in violation of ~~subsection (b) of K.S.A. 8-143(b), and amendments thereto,~~ shall be required to pay the additional fee equal to the fee required by the applicable registration fee schedule, less the amount of the fee required for the gross weight for which the vehicle is registered to obtain the proper registration therewith. A fine of \$75 shall be assessed for all such gross weight registration violations.

*Eighth:* To operate a local truck or truck tractor which is registered for a gross weight of more than 12,000 pounds as a common carrier outside a radius of three miles beyond the corporate limits of the city in which such vehicle was based when registered and licensed or to operate any other local truck or truck tractor licensed for a gross weight of more than 12,000 pounds outside a radius of 25 miles beyond the corporate limits of the city in which such vehicle was based when registered and licensed, except as provided in ~~subsection (b) of K.S.A. 8-143(b) or 8-143i, and amendments thereto.~~

*Ninth:* To operate on the highways of this state a farm truck or farm trailer other than to transport: (a) Agricultural products produced by such owner; (b) commodities purchased by the owner for use on the farm owned or rented by the owner of such vehicles; (c) commodities for religious or educational institutions being transported by the owner of such vehicles for charity and without compensation of any kind, except as provided in ~~subsection (c) of K.S.A. 66-1,109(c), and amendments thereto;~~ or (d) 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.

*Tenth:* To operate a farm truck or truck tractor used in combination with a trailer or semitrailer for a gross weight which does not 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; and such farm truck or farm truck tractor used to transport a gross weight of more than 54,000 pounds shall have durably lettered on the side of the motor vehicle the words "farm vehicle—not for hire."

*Eleventh:* To operate on the highways of this state any truck or truck tractor without the current quarter of license fees being paid thereon.

*Twelfth:* To operate on the highways of this state a truck or truck tractor without carrying in the cab a copy of the registration receipt for such vehicle or without having painted or otherwise durably marked on ~~said~~ *the* vehicle on both sides thereof, the gross weight for which ~~said~~ *the* vehicle is licensed and the name and address of the owner thereof, except as provided in K.S.A. 8-143e, and amendments thereto.

*Thirteenth:* To operate on the highways of this state a farm trailer carrying more than 6,000 pounds without being registered and the registration fees paid thereon.

*Fourteenth:* To operate more than 6,000 miles in any calendar year any truck or truck tractor which has been registered and licensed to operate not more than 6,000 miles in such calendar year, as provided in ~~subsection (b) of K.S.A. 8-143(b)~~, and amendments thereto, unless the additional fee required by such subsection (b) has been paid.

*Fifteenth:* For any owner who has registered a truck or truck tractor on the basis of operating not more than 6,000 miles to fail to keep the records required by the director of vehicles, or to fail to comply with rules and regulations of the secretary of revenue relating to such registration.

*Sixteenth:* To operate a vehicle or combination of vehicles on the national system of interstate and defense highways with a gross weight greater than permitted by the laws of the United States congress.

Sec. 4. K.S.A. 8-143e is hereby amended to read as follows: 8-143e. The county treasurer shall issue to the owner a registration receipt on each application for a truck or truck tractor license. The registration application and receipt shall be in such number and contain such information as the division shall determine. *Except as provided by K.S.A. 8-142 First, and amendments thereto*, a copy of the registration receipt shall be carried in the cab of such truck or truck tractor during all the time the same is operated on the highways of this state. Any truck or truck tractor for which the owner has declared the maximum gross weight to be more than ~~twelve thousand (12,000)~~ 12,000 pounds shall have painted or otherwise durably marked on ~~said~~ *the* vehicle on both sides ~~thereof~~, in plain letters not less than two ~~(2)~~ inches in height and with not less than ~~one-fourth (1/4)~~ 1/4 inch stroke, the gross weight for which ~~said~~ *the* vehicle is licensed, and the name and address of the owner or lessee ~~thereof~~. ~~Provided, That~~ If the division ~~shall find~~ *finds* that any insignia or trademark painted or otherwise durably marked on any such vehicle is sufficient to properly show the gross weight for which ~~said~~ *the* vehicle is licensed and to identify the owner and show the address of the owner ~~thereof~~, the division may issue a permit authorizing the use of such insignia or trademark. ~~Provided further, That~~ A vehicle registered as a farm truck or truck tractor shall not be required to be so painted or marked. When such

painting or marking shall become illegible, the same shall be repainted or remarked, as herein required.

Sec. 5. K.S.A. 2014 Supp. 8-240 is hereby amended to read as follows: 8-240. (a) (1) Every application for an instruction permit shall be made upon a form furnished by the division of vehicles and accompanied by a fee of \$2 for class A, B, C or M and \$5 for all commercial classes. Every other application shall be made upon a form furnished by the division and accompanied by an examination fee of \$3, unless a different fee is required by K.S.A. 8-241, and amendments thereto, and by the proper fee for the license for which the application is made. *All commercial class applicants shall be charged a \$15 driving test fee for the drive test portion of the commercial driver's license application.* If the applicant is not required to take an examination *or the commercial license drive test*, the examination *or commercial drive test* fee shall not be required. The examination shall consist of three tests, as follows: (A) Vision; (B) written; and (C) driving. *For a commercial driver's license, the drive test shall consist of three components, as follows: (A) Pre-trip; (B) skills test; and (C) road test.* If the applicant fails the vision test, the applicant may have correction of vision made and take the vision test again without any additional fee. If an applicant fails the written test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails the driving test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. *If an applicant for a commercial driver's license fails any portion of the commercial drive test, the applicant may take such test again upon the payment of an additional drive test fee of \$10.* If an applicant fails to pass all three of the tests within a period of six months from the date of original application and desires to take additional tests, the applicant shall file an application for reexamination upon a form furnished by the division, which shall be accompanied by a reexamination fee of \$3, except that any applicant who fails to pass the written or driving portion of an examination four times within a six-month period, shall be required to wait a period of six months from the date of the last failed examination before additional examinations may be given. Upon the filing of such application and the payment of such reexamination fee, the applicant shall be entitled to reexamination in like manner and subject to the additional fees and time limitation as provided for examination on an original application. If the applicant passes the reexamination, the applicant shall be issued the classified driver's license for which the applicant originally applied, which license shall be issued to expire as if the applicant had passed the original examination.

(2) Applicants for class M licenses who have completed prior motorcycle safety training in accordance with department of defense instruction

6055.04 (DoDI 6055.04) are not required to complete further written and driving testing pursuant to paragraph (1) of this subsection.

(b) (1) For the purposes of obtaining any driver's license or instruction permit, an applicant shall submit, with the application, proof of age and proof of identity as the division may require. The applicant also shall provide a photo identity document, except that a non-photo identity document is acceptable if it includes both the applicant's full legal name and date of birth, and documentation showing the applicant's name, the applicant's address of principal residence and the applicant's social security number. The applicant's social security number shall remain confidential and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012, and amendments thereto. If the applicant does not have a social security number the applicant shall provide proof of lawful presence and Kansas residency. The division shall assign a distinguishing number to the license or permit.

(2) The division shall not issue any driver's license or instruction permit to any person who fails to provide proof that the person is lawfully present in the United States. Before issuing a driver's license or instruction permit to a person, the division shall require valid documentary evidence that the applicant: (A) Is a citizen or national of the United States; (B) is an alien lawfully admitted for permanent or temporary residence in the United States; (C) has conditional permanent resident status in the United States; (D) has an approved application for asylum in the United States or has entered into the United States in refugee status; (E) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States; (F) has a pending application for asylum in the United States; (G) has a pending or approved application for temporary protected status in the United States; (H) has approved deferred action status; or (I) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(3) If an applicant provides evidence of lawful presence set out in subsections (b)(2)(E) through (2)(I), or is an alien lawfully admitted for temporary residence under subsection (b)(2)(B), the division may only issue a driver's license to the person under the following conditions: (A) A driver's license issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year; (B) a driver's license issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires; (C) no driver's license issued pursuant to this subparagraph shall be for a longer period of time than the time period permitted by ~~subsection (a) of~~ K.S.A. 8-247(a), and amendments thereto; and (D) a driver's license issued pursuant to this subparagraph may be renewed, subject at the time of renewal, to the same requirements and

conditions as set out in this subsection (b) for the issuance of the original driver's license.

(4) The division shall not issue any driver's license or instruction permit to any person who is not a resident of the state of Kansas, except as provided in K.S.A. 8-2,148, and amendments thereto.

(5) The division shall not issue a driver's license to a person holding a driver's license issued by another state without making reasonable efforts to confirm that the person is terminating or has terminated the driver's license in the other state.

(6) The parent or guardian of an applicant under 16 years of age shall sign the application for any driver's license submitted by such applicant.

(c) Every application shall state the full legal name, date of birth, gender and address of principal residence of the applicant, and briefly describe the applicant, and shall state whether the applicant has been licensed as a driver prior to such application, and, if so, when and by what state or country. Such application shall state whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal. In addition, applications for commercial drivers' licenses and instruction permits for commercial licenses must include the following: The applicant's social security number; the person's signature; the person's colored digital photograph; certifications, including those required by 49 C.F.R. § 383.71(a), effective January 1, 1991; a consent to release driving record information; and, any other information required by the division.

(d) When an application is received from a person previously licensed in another jurisdiction, the division shall request a copy of the driver's record from the other jurisdiction. When received, the driver's record shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(e) When the division receives a request for a driver's record from another licensing jurisdiction the record shall be forwarded without charge.

(f) A fee shall be charged as follows:

(1) For a class C driver's license issued to a person at least 21 years of age, but less than 65 years of age, \$18;

(2) for a class C driver's license issued to a person 65 years of age or older, \$12;

(3) for a class M driver's license issued to a person at least 21 years of age, but less than 65 years of age, \$12.50;

(4) for a class M driver's license issued to a person 65 years of age or older, \$9;

(5) for a class A or B driver's license issued to a person who is at least 21 years of age, but less than 65 years of age, \$24;

(6) for a class A or B driver's license issued to a person 65 years of age or older, \$16;

(7) for any class of commercial driver's license issued to a person 21 years of age or older, \$18; or

(8) for class A, B, C or M, or a farm permit, or any commercial driver's license issued to a person less than 21 years of age, \$20.

A fee of \$10 shall be charged for each commercial driver's license endorsement, except air brake endorsements which shall have no charge.

A fee of \$3 per year shall be charged for any renewal of a license issued prior to the effective date of this act to a person less than 21 years of age.

If one fails to make an original application or renewal application for a driver's license within the time required by law, or fails to make application within 60 days after becoming a resident of Kansas, a penalty of \$1 shall be added to the fee charged for the driver's license.

(g) Any person who possesses an identification card as provided in K.S.A. 8-1324, and amendments thereto, shall surrender such identification card to the division upon being issued a valid Kansas driver's license or upon reinstatement and return of a valid Kansas driver's license.

(h) The division shall require that any person applying for a driver's license submit to a mandatory facial image capture.

(i) The director of vehicles may issue a temporary driver's license to an applicant who cannot provide valid documentary evidence as defined by subsection (b)(2), if the applicant provides compelling evidence proving current lawful presence. Any temporary license issued pursuant to this subsection shall be valid for one year.

Sec. 6. K.S.A. 8-143e and K.S.A. 2014 Supp. 8-142 and 8-240 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 7, 2015.

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## CHAPTER 48

HOUSE BILL No. 2044  
(Amended by Chapter 100)

AN ACT concerning motor vehicles; relating to autocycles, definitions, safety belts, child passenger safety restraints, requirements; distinctive license plates, providing for the omega psi phi license plate; amending K.S.A. 8-1438 and 8-1594 and K.S.A. 2014 Supp. 8-126, 8-234b, 8-1344, 8-1345, 8-1486, 8-1598 and 8-2503 and repealing the existing sections.

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

New Section 1. “Autocycle” means a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

Sec. 2. K.S.A. 2014 Supp. 8-126 is hereby amended to read as follows: 8-126. The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

(a) “All-terrain vehicle” means any motorized nonhighway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires, having a seat designed to be straddled by the operator. As used in this subsection, nonhighway tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 14 inches or less.

(b) “Autocycle” means a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

~~(b)~~(c) “Commission” or “state highway commission” means the director of vehicles of the department of revenue.

~~(c)~~(d) “Contractor” means a person, partnership, corporation, local government, county government, county treasurer or other state agency that has contracted with the department to provide services associated with vehicle functions.

~~(d)~~(e) “Department” or “motor vehicle department” or “vehicle department” means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

~~(e)~~(f) “Division” means the division of vehicles of the department of revenue.

~~(f)~~(g) “Electric personal assistive mobility device” means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

~~(g)~~(h) “Electric vehicle” means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electrical energy storage devices, provided the recharge energy must be drawn from a source off the vehicle, such as, but not limited to:

(1) Residential electric service;

(2) an electric vehicle charging station, also called an EV charging station, an electric recharging point, a charging point, EVSE (Electric Vehicle Supply Equipment) or a public charging station.

~~(h)~~(i) “Electronic certificate of title” means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2014 Supp. 8-135d, and amendments thereto.

~~(i)~~(j) “Electronic notice of security interest” means the division’s online internet program which enables a dealer or secured party to submit a notice of security interest as defined in this section, and to cancel the notice or release the security interest using the program. This program is also known as the Kansas elien or KSelien.

~~(j)~~(k) “Farm tractor” means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

~~(k)~~(l) “Farm trailer” means every trailer and semitrailer as those terms are defined in this section, designed and used primarily as a farm vehicle.

~~(l)~~(m) “Foreign vehicle” means every motor vehicle, trailer, or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

~~(m)~~(n) “Golf cart” means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

~~(n)~~(o) “Highway” means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term “highway” shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

~~(o)~~(p) “Implement of husbandry” means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

(1) A farm tractor;

(2) a self-propelled farm implement;

(3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;

(4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

~~(p)~~(q) “Lien” means a security interest as defined in this section.

~~(q)~~(r) “Lightweight roadable vehicle” means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal aviation administration.

~~(r)~~(s) “Manufacturer” means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

~~(s)~~(t) “Micro utility truck” means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. “Micro utility truck” does not include a work-site utility vehicle or recreational off-highway vehicle.

~~(t)~~(u) “Motor vehicle” means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

~~(u)~~(v) “Motorcycle” means every motor vehicle, *including autocycles*, designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term “tractor” as defined in this section.

~~(v)~~(w) “Motorized bicycle” means every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has:

- (1) A motor which produces not more than 3.5 brake horsepower;
- (2) a cylinder capacity of not more than 130 cubic centimeters;
- (3) an automatic transmission; and
- (4) the capability of a maximum design speed of no more than 30 miles per hour.

~~(w)~~(x) “Motorized wheelchair” means any self-propelled vehicle designed specifically for use by a physically disabled person and such vehicle is incapable of a speed in excess of 15 miles per hour.

~~(x)~~(y) “New vehicle dealer” means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer’s contract therefor from a manufacturer or distributor and who has an established place of business in this state.

~~(y)~~(z) “Nonresident” means every person who is not a resident of this state.

~~(z)~~(aa) “Notice of security interest” means a notification to the division from a dealer or secured party of a purchase money security interest

as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, upon a vehicle which has been sold and delivered to the purchaser describing the vehicle and showing the name, address and acknowledgment of the secured party as well as the name and address of the debtor or debtors and other information the division requires.

~~(aa)~~(bb) “Oil well servicing, oil well clean-out or oil well drilling machinery or equipment” means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

~~(bb)~~(cc) “Owner” means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

~~(cc)~~(dd) “Passenger vehicle” means every motor vehicle, as defined in this section, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

~~(dd)~~(ee) “Person” means every natural person, firm, partnership, association or corporation.

~~(ee)~~(ff) “Pole trailer” means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

~~(ff)~~(gg) “Recreational off-highway vehicle” means any motor vehicle 64 inches or less in width, having a dry weight of 2,000 pounds or less, traveling on four or more nonhighway tires, having a nonstraddle seat and steering wheel for steering control.

~~(gg)~~(hh) “Road tractor” means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

~~(hh)~~(ii) “Self-propelled farm implement” means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

~~(ii)~~(jj) “Semitrailer” means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its

own weight and that of its own load rests upon or is carried by another vehicle.

~~(jj)~~(kk) “Specially constructed vehicle” means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

~~(kk)~~(ll) “Trailer” means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

~~(ll)~~(mm) “Travel trailer” means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

~~(mm)~~(nn) “Truck” means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

~~(nn)~~(oo) “Truck tractor” means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

~~(oo)~~(pp) “Used vehicle dealer” means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer’s contract for the sale of new motor vehicles, travel trailers or vehicles.

~~(pp)~~(qq) “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

~~(qq)~~(rr) “Vehicle functions” means services relating to the application, processing, auditing or distribution of original or renewal vehicle registrations, certificates of title, driver’s licenses and division-issued identification cards associated with services and functions set out in articles 1, 2 and 13 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto. “Vehicle functions” may also include personal property taxation duties set out in article 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and other vehicle-related events described in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

~~(rr)~~(ss) “Work-site utility vehicle” means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seat-

ing allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck or recreational off-highway vehicle.

Sec. 3. K.S.A. 2014 Supp. 8-234b is hereby amended to read as follows: 8-234b. (a) Every original driver's license issued by the division shall indicate the class or classes of motor vehicles which the licensee is entitled to drive. For this purpose the following classes are established:

(1) Commercial class A motor vehicles include any combination of vehicles with a gross combination weight rating of 26,001 pounds or more, providing the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;

(2) commercial class B motor vehicles include any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating;

(3) commercial class C motor vehicles include any single vehicle less than 26,001 pounds gross vehicle weight rating, or any such vehicle towing a vehicle not in excess of 10,000 pounds, or any vehicle less than 26,001 pounds gross vehicle weight rating towing a vehicle in excess of 10,000 pounds gross vehicle weight rating, provided the gross combination weight rating of the combination is less than 26,001 pounds comprising:

(A) Vehicles designed to transport 16 or more passengers, including the driver; or

(B) vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded;

(4) class A motor vehicles include any combination of vehicles with a gross combination weight rating of 26,001 pounds or more, provided the gross combination weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds, and all other lawful combinations of vehicles with a gross combination weight rating of 26,001 pounds, or more; except that, class A does not include a combination of vehicles that has a truck registered as a farm truck under K.S.A. 8-143, and amendments thereto;

(5) class B motor vehicles include any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating. Class B motor vehicles do not include a single vehicle registered as a farm truck under K.S.A. 8-143, and amendments thereto, when such farm truck has a gross vehicle weight rating of 26,001 pounds, or more; or any fire truck operated by a volunteer fire department;

(6) class C motor vehicles include any single vehicle with a gross vehicle weight rating less than 26,001 pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating, or any vehicle with a less than 26,001 gross vehicle weight rating towing a vehicle in excess of 10,000 pounds gross vehicle weight rating, provided

the gross combination weight rating of the combination is less than 26,001 pounds, or any single vehicle registered as a farm truck under K.S.A. 8-143, and amendments thereto, when such farm truck has a gross vehicle weight rating of 26,001 pounds, or more, or any fire truck operated by a volunteer fire department *or any autocycle*; and

(7) class M motor vehicles includes motorcycles, *but does not include autocycles*.

As used in this subsection, “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.

(b) Every applicant for an original driver’s license shall indicate on such person’s application the class or classes of motor vehicles for which the applicant desires a license to drive, and the division shall not issue a driver’s license to any person unless such person has demonstrated satisfactorily ability to exercise ordinary and reasonable control in the operation of motor vehicles in the class or classes for which the applicant desires a license to drive. The division shall administer an appropriate examination of each applicant’s ability to drive such motor vehicles. Except as provided in K.S.A. 8-2,125 through 8-2,142, and amendments thereto, the director of vehicles may accept a copy of the certificate of a person’s road test issued to an individual under the regulatory requirements of the United States department of transportation, in lieu of requiring the person to demonstrate ability to operate any motor vehicle or combination of vehicles, if such certificate was issued not more than three years prior to the person’s application for a driver’s license.

(c) Any person who is the holder of a valid driver’s license which entitles the person to drive class A motor vehicles may also drive class B and C motor vehicles. Any person who is the holder of a valid driver’s license which entitles the person to drive class B motor vehicles may also drive class C motor vehicles.

(d) The secretary of revenue shall adopt rules and regulations establishing qualifications for the safe operation of the various types, sizes and combinations of vehicles in each class of motor vehicles established in subsection (a). Such rules and regulations shall include the adoption of at least the minimum qualifications for commercial drivers’ licenses contained in the commercial motor vehicle safety act of 1986.

(e) Any reference in the motor vehicle drivers’ license act to a class or classes of motor vehicles is a reference to the classes of motor vehicles established in subsection (a), and any reference in the motor vehicle drivers’ license act to a classified driver’s license or a class of driver’s license means a driver’s license which restricts the holder thereof to driving one or more of such classes of motor vehicles.

(f) The secretary of revenue may enter into a contract with any person, who meets the qualifications imposed on persons regularly employed by the division as drivers' license examiners, to accept applications for drivers' licenses and to administer the examinations required for the issuance of drivers' licenses.

(g) Notwithstanding the provisions of subsection (a), any person employed as an automotive mechanic who possesses a valid class C driver's license may drive any class A or class B motor vehicle on the highways for the purpose of determining the proper performance of the vehicle, except that this does not include commercial class A, B or C vehicles.

Sec. 4. K.S.A. 2014 Supp. 8-1598 is hereby amended to read as follows: 8-1598. (a) No person under the age of 18 years shall operate or ride upon a motorcycle or a motorized bicycle, unless wearing a helmet which complies with minimum guidelines established by the national highway traffic safety administration pursuant to the national traffic and motor vehicle safety act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.

(b) No person shall allow or permit any person under the age of 18 years to: (1) Operate a motorcycle or motorized bicycle or to ride as a passenger upon a motorcycle or motorized bicycle without being in compliance with the provisions of subsection (a); or (2) operate a motorcycle or to ride as a passenger upon a motorcycle without being in compliance with the provisions of subsection (c).

(c) (1) No person shall operate a motorcycle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant, except when the motorcycle is equipped with a windscreen which has a minimum height of 10 inches measured from the center of the handlebars.

(2) No person under the age of 18 years shall ride as a passenger on a motorcycle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant.

(d) This section shall not apply to persons riding within an enclosed cab, *an autocycle* or on a golf cart, nor shall it apply to any person operating or riding any industrial or cargo-type vehicle having three wheels and commonly known as a truckster.

Sec. 5. K.S.A. 8-1438 is hereby amended to read as follows: 8-1438. "Motorcycle" means every motor vehicle, *including autocycles*, having a seat or saddle for the use of the rider and designed to travel on not more than three ~~(3)~~ wheels in contact with the ground, but excluding a tractor.

Sec. 6. K.S.A. 8-1594 is hereby amended to read as follows: 8-1594. (a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any

other person nor shall any other person ride on a motorcycle, unless such motorcycle is designed to carry more than one ~~(1)~~ person, in which event a passenger may ride upon the permanent and regular seat if designed for two ~~(2)~~ persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.

(b) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle. *This subsection shall not apply to any person riding within an autocycle.*

(c) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents such person from keeping both hands on the handlebars.

(d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

Sec. 7. K.S.A. 2014 Supp. 8-1486 is hereby amended to read as follows: 8-1486. K.S.A. 8-1402a, 8-1414a, 8-1439c, 8-1458a, 8-1459a, 8-1475a, 8-1487, 8-1488, 8-1489 and 8-1490 and amendments thereto, and K.S.A. 2014 Supp. 8-1491, 8-1492, 8-1493, 8-1494, 8-1495 and 8-1496, and amendments thereto, *and section 1, and amendments thereto*, shall be a part of, and supplemental to, the uniform act regulating traffic on highways.

Sec. 8. K.S.A. 2014 Supp. 8-2503 is hereby amended to read as follows: 8-2503. (a) Except as provided in subsection (b):

(1) Each occupant of *either* a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208 *or an autocycle*, who is 18 years of age or older, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion; and

(2) each occupant of *either* a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208 *or an autocycle*, who is at least 14 years of age but less than 18 years of age, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion.

(b) This section does not apply to:

(1) An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;

(2) carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes; or

(3) newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes.

(c) The secretary of transportation shall initiate an educational program designed to encourage compliance with the safety belt usage provisions of this act.

(d) The secretary shall evaluate the effectiveness of this act and shall include a report of its findings in the annual evaluation report on its highway safety plan that it submits under 23 U.S.C. § 402.

(e) Law enforcement officers shall not stop drivers for violations of subsection (a)(1) by a back seat occupant in the absence of another violation of law. A citation for violation of subsection (a)(1) by a back seat occupant shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.

Sec. 9. K.S.A. 2014 Supp. 8-1344 is hereby amended to read as follows: 8-1344. (a) Every driver as defined in K.S.A. 8-1416, and amendments thereto, who transports a child under the age of 14 years in a passenger car as defined in K.S.A. 8-1343a, and amendments thereto, *or an autocycle as defined in section 1, and amendments thereto*, on a highway as defined in K.S.A. 8-1424, and amendments thereto, shall provide for the protection of such child by properly using:

(1) For a child under the age of four years an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213;

(2) for a child four years of age, but under the age of eight years and who weighs less than 80 pounds or is less than 4 feet 9 inches in height, an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213; or

(3) for a child eight years of age but under the age of 14 years or who weighs more than 80 pounds or is more than 4 feet 9 inches in height, a safety belt manufactured in compliance with federal motor vehicle safety standard no. 208.

(b) If the number of children subject to the requirements of subsection (a) exceeds the number of passenger securing locations available for use by children affected by such requirements, and all of these securing locations are in use by children, then there is not a violation of this section.

(c) If a securing location only has a lap safety belt available, the provisions of subsection (a)(2) shall not apply and the child shall be secured in accordance with the provisions of subsection (a)(3).

Sec. 10. K.S.A. 2014 Supp. 8-1345 is hereby amended to read as follows: 8-1345. (a) It shall be unlawful for any driver to violate the provisions of K.S.A. 8-1344, and amendments thereto, and upon conviction such driver shall be punished by a fine of \$60. The failure to provide a child safety restraining system or safety belt for more than one child in the same passenger car, *or autocycle as defined in section 1, and amendments thereto*, at the same time shall be treated as a single violation. Any conviction under the provisions of this subsection shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

(b) The \$60 fine provided for in subsection (a) shall be waived if the driver convicted of violating ~~subsection (a)(1) or (a)(2) of K.S.A. 8-1344(a)(1) or (2)~~, and amendments thereto, provides proof to the court that such driver has purchased or acquired the appropriate and approved child passenger safety restraining system. At the time of issuing the citation for a violation of ~~subsection (a)(1) or (a)(2) of K.S.A. 8-1344(a)(1) or (2)~~, and amendments thereto, the law enforcement officer shall notify the driver of the waiver provisions of this subsection.

(c) No driver charged with violating the provisions of this act shall be convicted if such driver produces in the office of the arresting officer or in court proof that the child was 14 years of age or older at the time the violation was alleged to have occurred.

(d) Evidence of failure to secure a child in a child passenger safety restraining system or a safety belt under the provisions of K.S.A. 8-1344, and amendments thereto, shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(e) From and after the effective date of this act, and prior to July 1, 2007, a law enforcement officer shall issue a warning citation to anyone violating ~~subsection (a)(2) of K.S.A. 8-1344(a)(2)~~, and amendments thereto.

New Sec. 11. (a) On and after January 1, 2016, 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 omega psi phi 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 omega psi phi or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) Omega psi phi may authorize the use of its 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 omega psi phi. Any motor vehicle owner or lessee annually may apply to omega psi phi for the use of such logo. Upon annual application and payment to either: (1) Omega psi phi 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, omega psi phi 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 omega psi phi. 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 the omega psi phi 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 K.S.A. 8-132(b), 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 omega psi phi. If such logo use authorization statement is not presented at the time of registration or faxed by omega psi phi, 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) Omega psi phi 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 omega psi phi for information concerning the application process or the status of their license plate application.

(h) Omega psi phi, 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 omega psi phi 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 omega psi phi 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 omega psi phi royalty

fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the omega psi phi 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 omega psi phi royalty fund to the appropriate designee of omega psi phi shall be made on a monthly basis.

Sec. 12. K.S.A. 8-1438 and 8-1594 and K.S.A. 2014 Supp. 8-126, 8-234b, 8-1344, 8-1345, 8-1486, 8-1598 and 8-2503 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 7, 2015.

Published in the *Kansas Register* May 14, 2015.

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## CHAPTER 49

### Senate Substitute for HOUSE BILL No. 2090

AN ACT concerning motor vehicles; relating to registration; decals for license plates, serial numbers; apportioned fleet registration, mileage applications, fees and calculations; permanent registration of certain vehicles, annual report; commercial drivers' licenses, endorsements or restrictions; size limitations of certain vehicles, exceptions, forage cutters; amending K.S.A. 8-1,107 and K.S.A. 2014 Supp. 8-134, 8-1,134, 8-2,135 and 8-1904 and repealing the existing sections.

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

Section 1. On and after July 1, 2015, K.S.A. 2014 Supp. 8-134 is hereby amended to read as follows: 8-134. (a) Every vehicle registration under this act shall expire December 31 of each year, except passenger vehicles and vehicles provided for in K.S.A. 8-134a, and amendments thereto. The registration of vehicles to which K.S.A. 8-134a, and amendments thereto, applies shall expire in 1982 and thereafter in accordance with the provisions of subsections (b) and (c). Registration of vehicles shall be renewed annually upon application by the owner and by payment of the fees required by law. Except vehicles subject to K.S.A. 8-134a, and amendments thereto, and passenger vehicles, the renewal shall take effect on January 1 of each year but the owner of the vehicle shall have until and including the last day of February of each year within which to make application for such renewal. The division shall issue for such vehicles a February month decal to correspond with the statutory grace period. Criminal sanctions provided in K.S.A. 8-142, and amendments thereto, for failure to display any license plate or plates or any registration decal required to be affixed to any such license plate for the current registration year shall not be enforced until March 1 of each year. An owner who has

made proper application for renewal of registration of a vehicle prior to January 1, but who has not received the license plate or registration card for the ensuing year, shall be entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the license plate issued for the preceding year for such time as the director of vehicles finds necessary for issuance of such new license plate.

(b) Every passenger vehicle required by this act to be registered, except as otherwise provided, shall be registered for a period of 12 consecutive months. The division of vehicles, in order to initiate a system of registering or reregistering passenger vehicles during any month of a calendar year, may register or reregister a passenger vehicle for less than a twelve-month period, prorating the annual registration fee, when in the director's opinion such proration tends to fulfill the purpose of the monthly registration system.

(c) Passenger vehicle registration, and the authority to legally operate, use, or tow such vehicle on the highway shall expire at 12 midnight on the last day of the last month of the twelve-month period for which such vehicle was registered, and the owner shall see that such vehicle is reregistered as required by this act. The director of vehicles shall designate the registration period for each passenger vehicle in order to as nearly as feasible equalize registration or reregistration within the 12 months of the year. Any vehicle after having once been registered shall upon reregistration, be registered for the same twelve-month period except when the certificate of title has been transferred as provided by law. In this case, the vehicle shall be registered by the division of vehicles in accordance with the system adopted.

(d) For the purpose of this act, hearses and electrically propelled vehicles shall be classified as passenger vehicles.

(e) Every owner who registers or reregisters a vehicle in a calendar year, and in any calendar year in which a license plate is not issued for the renewal of registration of such vehicle, shall be furnished by the division one decal for the license plate issued for such vehicle and required by K.S.A. 8-133, and amendments thereto, to be affixed to the rear of such vehicle. Such decal shall be affixed to the number plate affixed to the rear of such vehicle and shall contain the letters designating the county in which such vehicle is registered, as provided in K.S.A. 8-147, and amendments thereto, ~~shall be numbered serially in each county~~ *indicate the license plate number for which the decal is to be affixed* and shall indicate the year in which such registration expires. The color of a decal shall be such that it contrasts with the color of the license plate to which it is to be affixed, and the director of vehicles shall change the color of such decals each year, without duplicating the same color in any five-year period or such extended period as the director designates under ~~subsection (b) of K.S.A. 8-132(b)~~, and amendments thereto. Such decals shall be so constructed that once a decal has been affixed to a license

plate it cannot be removed without destroying the decal, and the surface of such decals shall be capable of reflecting light. Consistent with the foregoing, the director of vehicles shall prescribe the size of and material to be used in the production of such decals, and the director of vehicles shall designate the location on a number plate where such decal shall be affixed.

(f) (1) The owner of a vehicle may, at the time of such registration or reregistration, purchase a park and recreation motor vehicle permit. Such permit shall cost \$15 until such time as the amount for such permit is changed by rules and regulations of the secretary of wildlife, parks and tourism.

(2) Such permit shall be nontransferable and shall expire on the date of expiration of the vehicle registration.

(3) Except as provided in subsection (f)(4), the county treasurer shall remit all such moneys paid to the county treasurer 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 be credited as provided in K.S.A. 32-991, and amendments thereto.

(4) The county treasurer may collect and retain a service charge fee of up to \$.50 for each park and recreation motor vehicle permit issued or sold by the county treasurer.

(5) As a condition of receiving the park and recreation motor vehicle permit, the applicant shall consent to the sharing of information, including, but not limited to, the applicant's name, address, email address and phone number, with the secretary of wildlife, parks and tourism by the division of motor vehicles.

(g) The secretary of revenue shall adopt rules and regulations necessary to accomplish the purpose of this act.

Sec. 2. On and after July 1, 2015, K.S.A. 8-1,107 is hereby amended to read as follows: 8-1,107. ~~(a) The initial application for apportioned registration of a fleet shall state the in-state miles and total fleet miles with respect to such fleet for the preceding year in this and other jurisdictions. If no operations were conducted with such fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual in-state and total fleet mileage. The director may evaluate and adjust the estimate in the application if the director is not satisfied as to the correctness thereof. The director shall not accept estimated mileage beyond the initial application and registration year for which apportioned fleet registration is sought.~~

~~(b) If an owner desires to apportion the registration of a fleet with a jurisdiction after an initial application has been filed or for a subsequent registration year after the initial registration year, and such owner did not conduct operations in such jurisdiction during the preceding year, such~~

~~owner may apportion the registration of a fleet in such jurisdiction by filing an affidavit with the division of vehicles upon a form provided by the division, which form shall provide a full statement of the proposed method of operation and an estimate of mileage in such jurisdiction. The division of vehicles shall compute the apportioned registration fee for such estimated mileage jurisdiction as follows: (1) Add the estimated mileage to the total fleet mileage reported or adjusted by audit for a registration year, (2) divide the estimated in-state miles for the jurisdiction by the adjusted total fleet mileage as determined under paragraph (1), (3) determine the total amount of fees necessary under the provisions of K.S.A. 8-143, and amendments thereto, to register each and every vehicle of a fleet for which apportioned registration is sought, based on the regular annual fees for the unexpired portion of a registration year, (4) multiply the sum obtained under paragraph (3) by the percentage factor obtained under paragraph (2). Mileage applications and fees shall be charged according to the international registration plan. All mileage calculations shall comply with the rules of the international registration plan.~~

Sec. 3. On and after July 1, 2015, K.S.A. 2014 Supp. 8-1,134 is hereby amended to read as follows: 8-1,134. (a) Except as provided in subsection (d): (1) Each motor vehicle, trailer or semitrailer owned or leased by any city, county, township or school district of this state or by any agency or instrumentality of any city, county or township and used exclusively for governmental or school district purposes and not for any private purposes, which is not otherwise exempt from registration; or (2) each truck tractor, trailer or semitrailer leased by a community college or technical college and used exclusively for a truck driver training program, which is not otherwise exempt from registration, shall be registered for a fee established by rules and regulations adopted by the secretary of revenue, except that such fee shall not exceed the actual cost of such registration. Such registration shall be permanent in nature and designed in such a manner as to remain with a vehicle for the duration of the life span of the vehicle, the duration of the lease or until the title is transferred to an owner who is not a city, county, township, school district, community college or technical college.

(b) License plates issued for city, county, township, school district, community college or technical college vehicles shall be distinctive and shall contain the words city, county, township, school district, community college or technical college, as applicable and there shall be no year date thereon.

~~(c) Each city, county, township, school district, community college or technical college shall file an annual report with the division of vehicles identifying such vehicle registered under this section.~~

~~(d)~~—Vehicles registered under this section which are used for utility purposes shall be issued license plates as prescribed by subsection (b),

except that such license plates shall be issued for periods of five years, but shall be required to pay all license fees imposed pursuant to K.S.A. 8-143, and amendments thereto, as though such vehicles were registered annually. The secretary of revenue shall design decals to be affixed to such license plates containing the word utility and the date the registration is to expire.

~~(c)~~(d) The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act.

Sec. 4. On and after July 1, 2015, K.S.A. 2014 Supp. 8-2,135 is hereby amended to read as follows: 8-2,135. (a) The commercial driver's license shall be marked "commercial driver's license" or "CDL," and must be, to the maximum extent practicable, tamper proof. It shall include, but not be limited to, the following information:

(1) The requirements set out in K.S.A. 8-243, and amendments thereto;

(2) a number or identifier deemed appropriate by the state licensing authority;

(3) the class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restriction;

(4) the name of this state; and

(5) the dates between which the license is valid.

(b) Commercial drivers' licenses issued pursuant to K.S.A. 8-234b, and amendments thereto, may be issued with the following endorsements or restrictions; and the holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles, except motorcycles and vehicles which require an endorsement, unless the proper endorsement appears on the license;

(1) "H"—authorizes the driver to drive a vehicle transporting hazardous materials;

(2) "L"—restricts the driver to vehicles not equipped with airbrakes;

(3) "T"—authorizes driving double and triple trailers;

(4) "P"—authorizes driving vehicles carrying passengers;

(5) "N"—authorizes driving tank vehicles;

(6) "X"—represents a combination of hazardous materials and tank vehicle endorsements;

(7) "S"—authorizes driving school buses;

(8) "E"—*no manual transmission in CMV*;

(9) "O"—*no tractor-trailer*;

(10) "M"—*no class A passenger vehicle*;

(11) "N"—*no class A or B passenger vehicle*;

(12) "Z"—*no full air brake in CMV*;

(13) "K"—*for intrastate only*;

(14) "V"—*for medical variance*.

(c) Before issuing a commercial driver's license, the division must obtain driving record information through the commercial driver license information system, the national driver register and from each state in which the person has been licensed.

(d) Within 10 days after issuing a commercial driver's license, the division shall notify the commercial driver license information system of that fact, providing all information required to ensure identification of the person.

(e) All original licenses issued after April 1, 1992, shall expire on the fourth anniversary of the date of birth of the licensee which is nearest the date of application. All renewals thereof shall expire on every fourth anniversary of the date of birth of the licensee. No driver's license shall expire in the same calendar year in which the original license or renewal license is issued, except that if the foregoing provisions of this section shall require the issuance of a renewal license or an original license for a period of less than six calendar months, the license issued to the applicant shall expire at midnight on every fourth anniversary of the date of birth of the applicant. At least 30 days prior to the expiration of a person's license, the division shall mail a notice of expiration or renewal application to such person at the address shown on the license.

(f) When applying for renewal of a commercial driver's license, the applicant must complete the test required in ~~subsection (e) of K.S.A. 8-247(e)~~, and amendments thereto, and the application form required by ~~subsection (b) of K.S.A. 8-2,134(b)~~, and amendments thereto, providing updated information and required certifications and if the applicant wishes to retain a hazardous materials endorsement, the applicant must take and pass the test for such endorsement.

Sec. 5. K.S.A. 2014 Supp. 8-1904 is hereby amended to read as follows: 8-1904. (a) No vehicle including any load thereon shall exceed a height of 14 feet, except that a vehicle transporting cylindrically shaped bales of hay as authorized by ~~subsection (e) of K.S.A. 8-1902(e)~~, and amendments thereto, may be loaded with such bales secured to a height not exceeding 14½ feet. Should a vehicle so loaded with bales strike any overpass or other obstacle, the operator of the vehicle shall be liable for all damages resulting therefrom. The secretary of transportation may adopt rules and regulations for the movement of such loads of cylindrically shaped bales of hay.

(b) No motor vehicle including the load thereon shall exceed a length of 45 feet extreme overall dimension, excluding the front and rear bumpers, except as provided in subsection (d).

(c) Except as otherwise provided in K.S.A. 8-1914 and 8-1915, and amendments thereto, and subsections (d), (e), (f), (g) and (h), no combination of vehicles coupled together shall exceed a total length of 65 feet.

(d) The length limitations in subsection (b) shall not apply to a truck tractor. No semitrailer which is being operated in combination with a truck tractor shall exceed 59½ feet in length. No semitrailer or trailer which is being operated in a combination consisting of a truck tractor, semitrailer and trailer shall exceed 28½ feet in length.

(e) The limitations in this section governing maximum length of a semitrailer or trailer shall not apply to vehicles operating in the daytime when transporting poles, pipe, machinery or other objects of a structural nature which cannot readily be dismembered, except that it shall be unlawful to operate any such vehicle or combination of vehicles which exceeds a total length of 85 feet unless a special permit for such operation has been issued by the secretary of transportation or by an agent or designee of the secretary pursuant to K.S.A. 8-1911, and amendments thereto. For the purpose of authorizing the issuance of such special permits at motor carrier inspection stations, the secretary of transportation may contract with the superintendent of the Kansas highway patrol for such purpose, and in such event, the superintendent or any designee of the superintendent may issue such special permit pursuant to the terms and conditions of the contract. The limitations in this section shall not apply to vehicles transporting such objects operated at nighttime by a public utility when required for emergency repair of public service facilities or properties or when operated under special permit as provided in K.S.A. 8-1911, and amendments thereto, but in respect to such night transportation every such vehicle and the load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of such load.

(f) The limitations of this section governing the maximum length of combinations of vehicles shall not apply to a combination of vehicles consisting of a truck tractor towing a house trailer, if such combination of vehicles does not exceed an overall length of 97 feet.

(g) The length limitations of this section shall not apply to stinger-steered automobile or boat transporters or one truck and one trailer vehicle combination, loaded or unloaded, used in transporting a combine, *forage cutter or combine header* to be engaged in farm custom harvesting operations, as defined in ~~subsection (d) of~~ K.S.A. 8-143j(d), and amendments thereto. A stinger-steered automobile or boat transporter or one truck and one trailer vehicle combination, loaded or unloaded, used in transporting a combine, *forage cutter or combine header* to be engaged in farm custom harvesting operations, as defined in ~~subsection (d) of~~ K.S.A. 8-143j(d), and amendments thereto, shall not exceed an overall length limit of 75 feet, exclusive of front and rear overhang.

(h) The length limitations of this section shall not apply to drive-away saddlemount or drive-away saddlemount with fullmount vehicle transporter combination. A drive-away saddlemount or drive-away saddle-

mount with fullmount vehicle transporter combination shall not exceed an extreme overall dimension of 97 feet.

Sec. 6. K.S.A. 2014 Supp. 8-1904 is hereby repealed.

Sec. 7. On and after July 1, 2015, K.S.A. 8-1,107 and K.S.A. 2014 Supp. 8-134, 8-1,134 and 8-2,135 are hereby repealed.

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

Approved May 7, 2015.

Published in the *Kansas Register* May 14, 2015.

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## CHAPTER 50

### HOUSE BILL No. 2097

AN ACT concerning search and rescue and hazardous material response matters; dealing with tort claims immunity; amending K.S.A. 2014 Supp. 75-6102 and repealing the existing section.

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

New Section 1. (a) The state fire marshal may enter into contracts to establish regional search and rescue teams to provide a response to search and rescue incidents.

(b) (1) The state fire marshal shall appoint a search and rescue advisory committee to provide input and assistance to the search and rescue program and act as advisors to the state fire marshal and director of the emergency response division.

(2) The search and rescue advisory committee shall be comprised of one member from each search and rescue region, one representative from the Kansas division of emergency management, one representative from the Kansas national guard/crisis city, one representative from the Kansas fire and rescue training institute and one representative from the Kansas search and rescue dog association.

(3) The committee shall meet periodically as determined by the state fire marshal. Advisory committee members attending committee meetings shall be paid per diem compensation and subsistence allowances, mileage and other reasonable and necessary expenses as provided in K.S.A. 75-3223, and amendments thereto.

(c) The state fire marshal may adopt rules and regulations governing the composition, training requirements, response and operations of the regional search and rescue teams.

New Sec. 2. (a) The hazardous materials emergency fund of the state fire marshal is hereby redesignated as the emergency response fund of the state fire marshal. In addition to any other purposes for which ex-

penditures may be made by the state fire marshal from the moneys appropriated from the emergency response fund, expenditures shall be made by the state fire marshal from the moneys appropriated from the emergency response fund to establish and maintain regional emergency response teams to provide a response to hazardous materials or search and rescue incidents.

(b) In the event the balance of the emergency response fund of the state fire marshal falls below \$500,000, the state fire marshal may certify to the director of accounts and reports an amount to be transferred from the fire marshal fee fund to the emergency response fund of the state fire marshal, which amount shall not exceed the amount necessary to bring the balance of the emergency response fund to \$500,000. The director of accounts and reports shall transfer the amount certified by the state fire marshal from the fire marshal fee fund to the emergency response fund of the state fire marshal.

Sec. 3. K.S.A. 2014 Supp. 75-6102 is hereby amended to read as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

(a) “State” means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(b) “Municipality” means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(c) “Governmental entity” means state or municipality.

(d) (1) “Employee” means: (A) Any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation and a charitable health care provider;

(B) any steward or racing judge appointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless of whether the services of such steward or racing judge are rendered pursuant to contract as an independent contractor;

(C) employees of the United States marshal’s service engaged in the transportation of inmates on behalf of the secretary of corrections;

(D) a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational or vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in an institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions

within the scope of their employment through a liability insurance contract of such independent contractor;

(E) a person who is an employee or volunteer of a nonprofit program, other than a municipality, who has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the ~~commissioner of juvenile justice~~ *secretary of corrections* to provide a juvenile justice program for juvenile offenders in a judicial district provided that such employee or volunteer does not otherwise have coverage for such acts and omissions within the scope of their employment or volunteer activities through a liability insurance contract of such nonprofit program;

(F) a person who contracts with the Kansas guardianship program to provide services as a court-appointed guardian or conservator;

(G) an employee of an indigent health care clinic;

(H) former employees for acts and omissions within the scope of their employment during their former employment with the governmental entity;

(I) any member of a regional medical emergency response team, created under the provisions of K.S.A. 48-928, and amendments thereto, in connection with authorized training or upon activation for an emergency response; ~~and~~

(J) *any member of a regional search and rescue team or regional hazardous materials response team contracting with the state fire marshal pursuant to K.S.A. 31-133, and amendments thereto, or section 1, and amendments thereto, in connection with authorized training or upon activation for an emergency response; and*

(K) medical students enrolled at the university of Kansas medical center who are in clinical training, on or after July 1, 2008, at the university of Kansas medical center or at another health care institution.

(2) “Employee” does not include: (A) An individual or entity for actions within the scope of K.S.A. 60-3614, and amendments thereto; or

(B) any independent contractor under contract with a governmental entity except those contractors specifically listed in paragraph (1) of this subsection.

(e) “Charitable health care provider” means a person licensed by the state board of healing arts as an exempt licensee or a federally active licensee, a person issued a limited permit by the state board of healing arts, a physician assistant licensed by the state board of healing arts, a mental health practitioner licensed by the behavioral sciences regulatory board, an ultrasound technologist currently registered in any area of sonography credentialed through the American registry of radiology technologists, the American registry for diagnostic medical sonography or cardiovascular credentialing international and working under the supervision of a person licensed to practice medicine and surgery, or a health care

provider as the term “health care provider” is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

(1) The secretary of health and environment under K.S.A. 75-6120, and amendments thereto, who, pursuant to such agreement, gratuitously renders professional services to a person who has provided information which would reasonably lead the health care provider to make the good faith assumption that such person meets the definition of medically indigent person as defined by this section or to a person receiving medical assistance from the programs operated by the department of health and environment, and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto;

(2) the secretary of health and environment and who, pursuant to such agreement, gratuitously renders professional services in conducting children’s immunization programs administered by the secretary;

(3) a local health department or indigent health care clinic, which renders professional services to medically indigent persons or persons receiving medical assistance from the programs operated by the department of health and environment gratuitously or for a fee paid by the local health department or indigent health care clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto. Professional services rendered by a provider under this paragraph (3) shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent health care clinic and notwithstanding any fee paid by the local health department or indigent health care clinic to a provider in accordance with this paragraph (3); or

(4) the secretary of health and environment to provide dentistry services defined by K.S.A. 65-1422 et seq., and amendments thereto, or dental hygienist services defined by K.S.A. 65-1456, and amendments thereto, that are targeted, but are not limited to, medically indigent persons, and are provided on a gratuitous basis: (A) At a location sponsored by a not-for-profit organization that is not the dentist or dental hygienist office location; ~~or~~ (B) at the office location of a dentist or dental hygienist provided the care be delivered as part of a program organized by a not-for-profit organization and approved by the secretary of health and environment; or (C) as part of a charitable program organized by the dentist that has been approved by the secretary of health and environment upon a showing that the dentist seeks to treat medically indigent patients on a gratuitous basis, except that such dentistry services and dental hygienist services shall not include “oral and maxillofacial surgery” as defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result in “deep sedation” or “general anesthesia” as defined by K.A.R. 71-5-7.

(f) “Medically indigent person” means a person who lacks resources to pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person estab-

lished by the secretary of health and environment under K.S.A. 75-6120, and amendments thereto.

(g) “Indigent health care clinic” means an outpatient medical care clinic operated on a not-for-profit basis which has a contractual agreement in effect with the secretary of health and environment to provide health care services to medically indigent persons.

(h) “Local health department” shall have the meaning ascribed to such term under K.S.A. 65-241, and amendments thereto.

(i) “Fire control, fire rescue or emergency medical services equipment” means any vehicle, firefighting tool, protective clothing, breathing apparatus and any other supplies, tools or equipment used in firefighting or fire rescue or in the provision of emergency medical services.

Sec. 4. K.S.A. 2014 Supp. 75-6102 is hereby repealed.

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

Approved May 14, 2015.

Published in the *Kansas Register* May 21, 2015.

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## CHAPTER 51

### HOUSE BILL No. 2240

AN ACT concerning taxation; relating to the board of tax appeals; small claims and expedited hearing division, hearing officers; members, qualifications and salary; amending K.S.A. 2014 Supp. 74-2433, 74-2433f and 74-2434 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 74-2433f is hereby amended to read as follows: 74-2433f. (a) There shall be a division of the state board of tax appeals known as the small claims and expedited hearings division. Hearing officers appointed by the chief hearing officer shall have authority to hear and decide cases heard in the small claims and expedited hearings division. ~~The chief hearing officer shall not appoint as a hearing officer any person employed by the board, including, but not limited to, any person employed by the board as an attorney.~~

(b) The small claims and expedited hearings division shall have jurisdiction over hearing and deciding applications for the refund of protested taxes under the provisions of K.S.A. 79-2005, and amendments thereto, and hearing and deciding appeals from decisions rendered pursuant to the provisions of K.S.A. 79-1448, and amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, with regard to single-family residential property. The filing of an appeal with the small claims and expedited hearings division shall be a

prerequisite for filing an appeal with the state board of tax appeals for appeals involving single-family residential property.

(c) At the election of the taxpayer, the small claims and expedited hearings division shall have jurisdiction over: (1) Any appeal of a decision, finding, order or ruling of the director of taxation, except an appeal, finding, order or ruling relating to an assessment issued pursuant to K.S.A. 79-5201 et seq., and amendments thereto, in which the amount of tax in controversy does not exceed \$15,000; (2) hearing and deciding applications for the refund of protested taxes under the provisions of K.S.A. 79-2005, and amendments thereto, where the value of the property, other than property devoted to agricultural use, is less than \$3,000,000 as reflected on the valuation notice; and (3) hearing and deciding appeals from decisions rendered pursuant to the provisions of K.S.A. 79-1448, and amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, other than those relating to land devoted to agricultural use, wherein the value of the property is less than \$3,000,000 as reflected on the valuation notice.

(d) In accordance with the provisions of K.S.A. 74-2438, and amendments thereto, any party may elect to appeal any application or decision referenced in subsection (b) to the state board of tax appeals. Except as provided in subsection (b) regarding single-family residential property, the filing of an appeal with the small claims and expedited hearings division shall not be a prerequisite for filing an appeal with the state board of tax appeals under this section. Final decisions of the small claims and expedited hearings division may be appealed to the state board of tax appeals. An appeal of a decision of the small claims and expedited hearings division to the state board of tax appeals shall be de novo. The county bears the burden of proof in any appeal filed by the county pursuant to this section.

(e) A taxpayer shall commence a proceeding in the small claims and expedited hearings division by filing a notice of appeal in the form prescribed by the rules of the state board of tax appeals which shall state the nature of the taxpayer's claim. The notice of appeal may be signed by the taxpayer, any person with an executed declaration of representative form from the property valuation division of the department of revenue or any person authorized to represent the taxpayer in subsection (f). Notice of appeal shall be provided to the appropriate unit of government named in the notice of appeal by the taxpayer. In any valuation appeal or tax protest commenced pursuant to articles 14 and 20 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, the hearing shall be conducted in the county where the property is located or a county adjacent thereto. In any appeal from a final determination by the secretary of revenue, the hearing shall be conducted in the county in which the taxpayer resides or a county adjacent thereto.

(f) The hearing in the small claims and expedited hearings division

shall be informal. The hearing officer may hear any testimony and receive any evidence the hearing officer deems necessary or desirable for a just determination of the case. A hearing officer shall have the authority to administer oaths in all matters before the hearing officer. All testimony shall be given under oath. A party may appear personally or may be represented by an attorney, a certified public accountant, a certified general appraiser, a tax representative or agent, a member of the taxpayer's immediate family or an authorized employee of the taxpayer. A county or unified government may be represented by the county appraiser, designee of the county appraiser, county attorney or counselor or other representatives so designated. No transcript of the proceedings shall be kept.

(g) The hearing in the small claims and expedited hearings division shall be conducted within 60 days after the appeal is filed in the small claims and expedited hearings division unless such time period is waived by the taxpayer. A decision shall be rendered by the hearing officer within 30 days after the hearing is concluded and, in cases arising from appeals described by subsections (b) and (c)(2) and (3), shall be accompanied by a written explanation of the reasoning upon which such decision is based. Documents provided by a taxpayer or county or district appraiser shall be returned to the taxpayer or the county or district appraiser by the hearing officer and shall not become a part of the board's permanent records. Documents provided to the hearing officer shall be confidential and may not be disclosed, except as otherwise specifically provided.

(h) With regard to any matter properly submitted to the division relating to the determination of valuation of property for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. With regard to leased commercial and industrial property, the burden of proof shall be on the taxpayer unless the taxpayer has furnished the county or district appraiser, within 30 calendar days following the informal meeting required by K.S.A. 79-1448, and amendments thereto, or within 30 calendar days following the informal meeting required by K.S.A. 79-2005, and amendments thereto, a complete income and expense statement for the property for the three years next preceding the year of appeal. Such income and expense statement shall be in such format that is regularly maintained by the taxpayer in the ordinary course of the taxpayer's business. If the taxpayer submits a single property appraisal with an effective date of January 1 of the year appealed, the burden of proof shall return to the county appraiser.

Sec. 2. K.S.A. 2014 Supp. 74-2433 is hereby amended to read as follows: 74-2433. (a) There is hereby created a state board of tax appeals, referred to in this act as the board. The board shall be composed of three

members who shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. For members appointed after June 30, 2014, one of such members shall have been regularly admitted to practice law in the state of Kansas and for a period of at least five years, have engaged in the active practice of law as a lawyer, judge of a court of record or any other court in this state; one of such members shall have engaged in active practice as a certified public accountant for a period of at least five years and one such member shall be a licensed certified general real property appraiser. In addition, the governor shall also appoint a chief hearing officer, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, who, in addition to other duties prescribed by this act, shall serve as a member pro tempore of the board. No successor shall be appointed for any judge of the court of tax appeals appointed before July 1, 2014. Such persons shall continue to serve as members on the board of tax appeals until their terms expire. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, including the chief hearing officer, shall exercise any power, duty or function as a member of the board until confirmed by the senate. Not more than two members of the board shall be of the same political party. Members of the board, including the chief hearing officer, shall be residents of the state. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, no more than one member shall be appointed from any one of the congressional districts of Kansas unless, after having exercised due diligence, the governor is unable to find a qualified replacement within 90 days after any vacancy on the board occurs. The members of the board, including the chief hearing officer, shall be selected with special reference to training and experience for duties imposed by this act and shall be individuals with legal, tax, accounting or appraisal training and experience. State board of tax appeals members shall be subject to the supreme court rules of judicial conduct applicable to all judges of the district court. The board shall be bound by the doctrine of stare decisis limited to published decisions of an appellate court. Members of the board, including the chief hearing officer, shall hold office for terms of four years. A member may continue to serve for a period of 90 days after the expiration of the member's term, or until a successor has been appointed and confirmed, whichever is shorter. Except as otherwise provided, such terms of office shall expire on January 15 of the last year of such term. If a vacancy occurs on the board, or in the position for chief hearing officer, the governor shall appoint a successor to fill the vacancy for the unexpired term. Nothing in this section shall be construed to prohibit the governor from reappointing any member of the board, including the chief hearing officer, for additional four-year terms. The governor shall select one of its members to serve as chairperson. The votes of two members shall be required for any final order to be issued by the board. Meetings may be called by the

chairperson and shall be called on request of a majority of the members of the board and when otherwise prescribed by statute.

(b) Any member appointed to the state board of tax appeals and the chief hearing officer may be removed by the governor for cause, after public hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) The state board of tax appeals shall appoint, subject to approval by the governor, an executive director of the board, to serve at the pleasure of the board. The executive director shall: (1) Be in the unclassified service under the Kansas civil service act; (2) devote full time to the executive director's assigned duties; (3) receive such compensation as determined by the board, subject to the limitations of appropriations thereof; and (4) have familiarity with the tax appeals process sufficient to fulfill the duties of the office of executive director. The executive director shall perform such other duties as directed by the board.

(d) Appeals decided by the state board of tax appeals shall be made available to the public and shall be published by the board on the board's website within 30 days after the decision has been rendered. The board shall also publish a monthly report that includes all appeals decided that month as well as all appeals which have not yet been decided and are beyond the time limitations as set forth in K.S.A. 74-2426, and amendments thereto. Such report shall be made available to the public and transmitted by the board to the members of the Kansas legislature.

(e) After appointment, members of the state board of tax appeals *that are not otherwise a state certified general real property appraiser* shall complete the following course requirements: (1) A tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the cost and sales approaches to value; (2) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the income approach to value; (3) a tested appraisal course of not less than 30 clock hours of instruction with an emphasis on mass appraisal; (4) an appraisal course with an emphasis on Kansas property tax laws ~~and~~; (5) an appraisal course on the techniques and procedures for the valuation of state assessed properties with an emphasis on unit valuation; and (6) a tested appraisal course on the techniques and procedures for the valuation of land devoted to agricultural use pursuant to K.S.A. 79-1476, and amendments thereto. *Any member appointed to the board who is a certified real property appraiser shall only be required to take such educational courses as are required to maintain the appraisal license.* The executive director shall adopt rules and regulations prescribing a timetable for the completion of the course requirements and prescribing continued education requirements for members of the board.

(f) The state board of tax appeals shall have no capacity or power to sue or be sued.

(g) It is the intent of the legislature that proceedings in front of the board of tax appeals be conducted in a fair and impartial manner and that all taxpayers are entitled to a neutral interpretation of the tax laws of the state of Kansas. The provisions of the tax laws of this state shall be applied impartially to both taxpayers and taxing districts in cases before the board. Cases before the board shall not be decided upon arguments concerning the shifting of the tax burden or upon any revenue loss or gain which may be experienced by the taxing district.

Sec. 3. K.S.A. 2014 Supp. 74-2434 is hereby amended to read as follows: 74-2434. (a) Each member of the board, including the chairperson and chief hearing officer, shall receive an annual salary as provided in this section. Each of the members of the board, including the chief hearing officer, shall devote full time to the duties of such office.

(b) For members, including the chief hearing officer, who are appointed prior to July 1, 2014:

(1) The annual salary of the ~~chief judge~~ *chairperson* shall be an amount equal to the annual salary paid by the state to a district judge designated as chief judge; and

(2) the annual salary of each ~~judge member~~ other than the ~~chief judge~~ *chairperson*, including the chief hearing officer, shall be an amount which is \$2,465 less than the annual salary of the ~~chief judge~~ *chairperson*.

(c) For members, including the chief hearing officer, *who are not state certified real property appraisers* who are appointed after June 30, 2014, the annual salary shall be an amount equal to the annual salary paid by the state to an administrative law judge, except that once such member or chief hearing officer completes the course requirements listed in K.S.A. 74-2433(e), and amendments thereto, then the annual salary shall be an amount which is \$2,465 less than the annual salary paid by the state to a district court judge designated as a chief judge.

Sec. 4. K.S.A. 2014 Supp. 74-2433, 74-2433f and 74-2434 are hereby repealed.

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

Approved May 14, 2015.

Published in the *Kansas Register* May 21, 2015.

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## CHAPTER 52

## HOUSE BILL No. 2391

AN ACT concerning state employees; relating to classified and unclassified service; amending K.S.A. 2014 Supp. 75-2935 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 75-2935 is hereby amended to read as follows: 75-2935. The civil service of the state of Kansas is hereby divided into the unclassified and the classified services.

(1) The unclassified service comprises positions held by state officers or employees who are:

(a) Chosen by election or appointment to fill an elective office;

(b) members of boards and commissions, heads of departments required by law to be appointed by the governor or by other elective officers, and the executive or administrative heads of offices, departments, divisions and institutions specifically established by law;

(c) except as otherwise provided under this section, one personal secretary to each elective officer of this state, and in addition thereto, 10 deputies, clerks or employees designated by such elective officer;

(d) all employees in the office of the governor;

(e) officers and employees of the senate and house of representatives of the legislature and of the legislative coordinating council and all officers and employees of the office of revisor of statutes, of the legislative research department, of the division of legislative administrative services, of the division of post audit and the legislative counsel;

(f) chancellor, president, deans, administrative officers, student health service physicians, pharmacists, teaching and research personnel, health care employees and student employees in the institutions under the state board of regents, the executive officer of the board of regents and the executive officer's employees other than clerical employees, and, at the discretion of the state board of regents, directors or administrative officers of departments and divisions of the institution and county extension agents, except that this subsection (1)(f) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors; as used in this subsection (1)(f), "health care employees" means employees of the university of Kansas medical center who provide health care services at the university of Kansas medical center and who are medical technicians or technologists or respiratory therapists, who are licensed professional nurses or licensed practical nurses, or who are in job classes which are designated for this purpose by the chancellor of the university of Kansas upon a finding by the chancellor that such designation is required for the university of Kansas medical center to recruit or retain personnel for

positions in the designated job classes; and employees of any institution under the state board of regents who are medical technologists;

(g) operations, maintenance and security personnel employed to implement agreements entered into by the adjutant general and the federal national guard bureau, and officers and enlisted persons in the national guard and the naval militia;

(h) persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;

(i) persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation;

(j) officers and employees in the office of the attorney general and special counsel to state departments appointed by the attorney general, except that officers and employees of the division of the Kansas bureau of investigation shall be in the classified or unclassified service as provided in K.S.A. 75-711, and amendments thereto;

(k) all employees of courts;

(l) client, patient and inmate help in any state facility or institution;

(m) all attorneys for boards, commissions and departments;

(n) the secretary and assistant secretary of the Kansas state historical society;

(o) physician specialists, dentists, dental hygienists, pharmacists, medical technologists and long term care workers employed by the Kansas department for aging and disability services;

(p) physician specialists, dentists and medical technologists employed by any board, commission or department or by any institution under the jurisdiction thereof;

(q) student employees enrolled in public institutions of higher learning;

(r) administrative officers, directors and teaching personnel of the state board of education and the state department of education and of any institution under the supervision and control of the state board of education, except that this subsection (1)(r) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors;

(s) all officers and employees in the office of the secretary of state;

(t) one personal secretary and one special assistant to the following: The secretary of administration, the secretary for aging and disability services, the secretary of agriculture, the secretary of commerce, the secretary of corrections, the secretary of health and environment, the superintendent of the Kansas highway patrol, the secretary of labor, the secretary of revenue, the secretary for children and families, the secretary of trans-

portation, the secretary of wildlife, parks and tourism and the commissioner of juvenile justice;

(u) one personal secretary and one special assistant to the chancellor and presidents of institutions under the state board of regents;

(v) one personal secretary and one special assistant to the executive vice chancellor of the university of Kansas medical center;

(w) one public information officer and one chief attorney for the following: The department of administration, the Kansas department for aging and disability services, the department of agriculture, the department of commerce, the department of corrections, the department of health and environment, the department of labor, the department of revenue, the Kansas department for children and families, the department of transportation, the Kansas department of wildlife, parks and tourism and the commissioner of juvenile justice;

(x) ~~civil service examination monitors~~ *if designated by the appointing authority, persons in newly hired positions, including any employee who is rehired into such position and any current state employee who voluntarily transfers into, or is voluntarily promoted or demoted into such position, on and after July 1, 2015, in any state agency;*

(y) one executive director, one general counsel and one director of public affairs and consumer protection in the office of the state corporation commission;

(z) specifically designated by law as being in the unclassified service;

(aa) any position that is classified as a position in the information resource manager job class series, that is the chief position responsible for all information resources management for a state agency, and that becomes vacant on or after the effective date of this act. Nothing in this section shall affect the classified status of any employee in the classified service who is employed on the date immediately preceding the effective date of this act in any position that is a classified position in the information resource manager job class series and the unclassified status as prescribed by this subsection shall apply only to a person appointed to any such position on or after the effective date of this act that is the chief position responsible for all information resources management for a state agency; ~~and~~

(bb) positions at state institutions of higher education that have been converted to unclassified positions pursuant to K.S.A. 2014 Supp. 76-715a, and amendments thereto; *and*

(cc) *notwithstanding the provisions of K.S.A. 22-4524, 32-802, 44-510g, 44-551, 44-552, 48-205, 48-919, 49-402e, 58-4105, 58-4503, 65-2878, 65-6103, 73-1210a, 73-1234, 74-506d, 74-515b, 74-561, 74-569, 74-631, 74-1106, 74-1704, 74-1806, 74-2435, 74-2614, 74-2702, 74-2906a, 74-5014, 74-5210, 74-6707, 74-6901, 74-6904, 74-7008, 74-7501, 74-8704, 74-8805, 74-9804, 75-118, 75-1202d, 75-2537, 75-2944, 75-3148, 75-3702c, 75-4222, 75-5005, 75-5015, 75-5016, 75-5122, 75-5157, 75-*

5309, 75-5310, 75-5378, 75-5610, 75-5702, 75-5708, 75-5733, 75-5910, 75-7028, 75-7054, 75-7304, 76-1002a, 76-1116, 76-12a04, 76-12a05, 76-12a08, 76-12a16, 76-3202 and 82a-1205 and K.S.A. 2014 Supp. 39-1911, and amendments thereto, any vacant position within the classified service may be converted by the appointing authority to an unclassified position.

(2) The classified service comprises all positions now existing or hereafter created which are not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible pools which so far as practicable shall be competitive. No person shall be appointed, promoted, reduced or discharged as an officer, clerk, employee or laborer in the classified service in any manner or by any means other than those prescribed in the Kansas civil service act and the rules adopted in accordance therewith.

(3) For positions involving unskilled, or semiskilled duties, the secretary of administration, as provided by law, shall establish rules and regulations concerning certifications, appointments, layoffs and reemployment which may be different from the rules and regulations established concerning these processes for other positions in the classified service.

(4) Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of the Kansas civil service act because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate pools of eligibles maintained by the division of personnel services.

(5) *On and after the effective date of this act, any state agency that has positions in the classified service within the Kansas civil service act to satisfy any requirement of maintaining personnel standards on a merit basis pursuant to federal law or the rules and regulations promulgated thereunder by the federal government or any agency thereof, shall adopt a binding statement of agency policy pursuant to K.S.A. 77-415, and amendments thereto, to satisfy such requirements if the appointing authority has made any such position unclassified.*

Sec. 2. K.S.A. 2014 Supp. 75-2935 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 14, 2015.

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## CHAPTER 53

## HOUSE BILL No. 2111

AN ACT concerning courts; relating to district magistrate judge jurisdiction and power; county law libraries; code of civil procedure, items allowable as costs; court costs, fees, fines and restitution; debts owed to courts; amending K.S.A. 20-3127 and 75-6209 and K.S.A. 2014 Supp. 20-302b, 60-2003, 60-2403, 75-719, 75-6202, 75-6204 and 75-6210 and repealing the existing sections.

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

Section 1. K.S.A. 2014 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, *violations of the wildlife, parks and tourism laws of this state or rules and regulations adopted thereunder*, 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. *A district magistrate judge shall have jurisdiction over uncontested actions for divorce.* Except as otherwise *specifically provided in this section*, ~~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 *all other civil cases, and shall have 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 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. Except with consent of the parties, or as otherwise specifically provided in this section, 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 subsection (a)(6);*

(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) *contested 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 (e), 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. 2014 Supp. 23-2201 et seq., and amendments thereto, the uniform interstate family support act, K.S.A. 2014 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. 39-709, 39-718b or 39-755 or K.S.A. 2014 Supp. 23-3101 through 23-3113, 38-2348, 38-2349 or 38-2350, and amendments thereto; or (C) enforce orders granting visitation rights or parenting time;*

(7) *habeas corpus;*

(8) *receiverships;*

(9) *declaratory judgments;*

(10) *mandamus and quo warranto;*

(11) *injunctions;*

(12) *class actions; and*

(13) *actions pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.*

(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~~ *Every action or proceeding* before a district magistrate judge regularly admitted to practice law in Kansas

shall be on the record if such ~~actions or proceedings~~ *action or proceeding* 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, the chief judge shall reassign~~ a petition or motion ~~filed under the Kansas code for care of children~~ requesting termination of parental rights pursuant to K.S.A. 2014 Supp. ~~38-2361 through 38-2367~~ 38-2266 and 38-2267, and amendments thereto, ~~the chief judge shall reassign such action~~ from a district magistrate judge to a district judge.

(f) *This section shall apply to every action or proceeding on or after July 1, 2014, regardless of the date such action or proceeding was filed or commenced.*

Sec. 2. K.S.A. 20-3127 is hereby amended to read as follows: 20-3127.

(a) Except as provided further, all fees collected pursuant to K.S.A. 20-3126, and amendments thereto, shall be used to establish and maintain the county law library. A board of trustees, appointed as provided in this section, shall have the management and control of such library and shall use the fees paid for registration, and all other sums, books, or library materials or equipment donated or provided by law, for the purpose of establishing and maintaining such library in the county courthouse or other suitable place to be provided and maintained by the county commissioners of such county, including acquiring and maintaining materials and technology that may, at the discretion of the board of trustees, be loaned to library users for use outside the premises of the library. The district judge or district judges of the district court, members of the bar who have registered and paid the fee provided for in K.S.A. 20-3126, and amendments thereto, judges of all other courts in the county and county officials shall have the right to use the library in accordance with the rules and regulations established by the board of trustees. The board of trustees shall develop guidelines to provide members of the public reasonable access to the law library.

(b) The board of trustees of any law library established or governed under this act, and amendments thereto, in Johnson and Sedgwick coun-

ties shall consist of five members, two of which shall be judges of the district court, appointed by a consensus of all judges of the district court in those counties, and three of which shall be members of the Johnson or Sedgwick county bar association, appointed by selection of the county bar association pursuant to the Johnson or Sedgwick county bar association's bylaws for two-year terms. The board of trustees of the law library in all other counties shall consist of the district judge or judges of the district court presiding in such county and not less than two attorneys who shall be elected for two-year terms by a majority of the attorneys residing in the county.

(c) The clerk of the district court of the county shall be treasurer of the library and shall safely keep the funds of such library and disburse them as the trustees shall direct. The clerk shall be liable on an official bond for any failure, refusal or neglect in performing such duties.

(d) The board of county commissioners of any county designated an urban area pursuant to K.S.A. 19-2654, and amendments thereto, wherein an election has been held to come under the provisions of this act is hereby authorized to appoint, by and with the advice and consent of the board of trustees of the law library of such county, a librarian, who shall act as custodian of the law library of such county and shall assist in the performance of the clerk's duties as treasurer thereof, and such assistants as are necessary to perform the duties of administering the law library. The librarian and any assistants so appointed shall be employees of the county under the supervision of the board of county commissioners, or the board's designated official, with the advice and recommendations of the board of trustees of the law library, and shall be subject to the personnel policies and procedures established by the board of county commissioners for all employees of the county. The librarian and any assistants shall receive as compensation such salaries and benefits as established by the law library board of trustees, subject to the approval of the board of county commissioners, which shall be payable from the general fund of the county, through the county payroll process, from funds budgeted and made available by the law library board of trustees for that purpose through the collection of fees or other funds authorized by this act.

(e) All attorneys registered under this act shall not be liable to pay any occupational tax or city license fees levied under the laws of this state by any municipality.

(f) (1) *Except as provided by subsection (f)(2), the board of trustees of a county law library established pursuant to this section may authorize the chief judge of the judicial district to use fees collected pursuant to K.S.A. 20-3126, and amendments thereto, for the purpose of facilitating and enhancing functions of the district court of the county. No judge shall participate in any decision made by the board of trustees of a county law library pursuant to this paragraph to authorize the chief judge of the*

*judicial district to use fees collected pursuant to K.S.A. 20-3126, and amendments thereto.*

(2) *The provisions of subsection (f)(1) shall not apply to the board of trustees of any law library established in Johnson and Sedgwick counties.*

Sec. 3. K.S.A. 2014 Supp. 60-2003 is hereby amended to read as follows: 60-2003. Items which may be included in the taxation of costs are:

(1) The docket fee as provided for by K.S.A. 60-2001, and amendments thereto.

(2) The mileage, fees, and other allowable expenses of the sheriff, other officer or private process server incurred in the service of process or in effecting any of the provisional remedies authorized by this chapter.

(3) Publisher's charges in effecting any publication of notices authorized by law.

(4) Statutory fees and mileage of witnesses attending court or the taking of depositions used as evidence.

(5) Reporter's or stenographic charges for the taking of depositions used as evidence.

(6) The postage fees incurred pursuant to K.S.A. 60-303, and amendments thereto.

(7) Alternative dispute resolution fees shall include fees, expenses and other costs arising from mediation, conciliation, arbitration, settlement conferences or other alternative dispute resolution means, whether or not such means were successful in resolving the matter or matters in dispute, which the court shall have ordered or to which the parties have agreed.

(8) *Convenience fees and other administrative fees levied for the privilege of paying assessments, fees, costs, fines or forfeitures by credit card or other means, including, but not limited to, fees for electronic filing of documents or pleadings with the court.*

(9) Such other charges as are by statute authorized to be taxed as costs.

Sec. 4. K.S.A. 2014 Supp. 60-2403 is hereby amended to read as follows: 60-2403. (a) (1) Except as provided in subsection (b) ~~or (d)~~, if a renewal affidavit is not filed or if execution, including any garnishment proceeding, support enforcement proceeding or proceeding in aid of execution, is not issued, within five years from the date of the entry of any judgment in any court of record in this state, including judgments in favor of the state or any municipality in the state, or within five years from the date of any order reviving the judgment or, if five years have intervened between the date of the last renewal affidavit filed or execution proceedings undertaken on the judgment and the time of filing another renewal affidavit or undertaking execution proceedings on it, the judgment, including court costs and fees therein shall become dormant, and shall cease

to operate as a lien on the real estate of the judgment debtor. When a judgment becomes and remains dormant for a period of two years, it shall be the duty of the judge to release the judgment of record when requested to do so.

(2) A “renewal affidavit” is a statement under oath, signed by the judgment creditor or the judgment creditor’s attorney, filed in the proceedings in which the judgment was entered and stating the remaining balance due and unpaid on the judgment.

(3) A “support enforcement proceeding” means any civil proceeding to enforce any judgment for payment of child support or maintenance and includes, but is not limited to, any income withholding proceeding under the income withholding act, K.S.A. 2014 Supp. 23-3101 et seq., and amendments thereto, any contempt proceeding and any civil proceeding under the uniform interstate family support act, K.S.A. 2014 Supp. 23-36,101 et seq., and amendments thereto.

(b) Except for those judgments which have become void as of July 1, 2007, no judgment for the support of a child shall be or become dormant for any purpose except as provided in this subsection. *Except for those judgments which have become void as of July 1, 2015, no judgment for court costs, fees, fines or restitution shall be or become dormant for any purpose except as provided in this subsection.* If a judgment would have become dormant under the conditions set forth in subsection (a), the judgment shall cease to operate as a lien on the real estate of the judgment debtor as of the date the judgment would have become dormant, but the judgment shall not be released of record pursuant to subsection (a).

(c) The time within which action must be taken to prevent a judgment from becoming dormant does not run during any period in which the enforcement of the judgment by legal process is stayed or prohibited.

~~(d) If a renewal affidavit is not filed or if execution is not issued, within 10 years from the date of the entry of any judgment of restitution in any court of record in this state, the judgment, including court costs and fees therein shall become dormant, and shall cease to operate as a lien on the real estate of the judgment debtor. Except as provided in subsection (b), when a judgment becomes and remains dormant for a period of two years, it shall be the duty of the judge to release the judgment of record when requested to do so.~~

Sec. 5. K.S.A. 2014 Supp. 75-719 is hereby amended to read as follows: 75-719. (a) ~~The attorney general~~ *judicial administrator* is authorized to enter into contracts in accordance with this section for collection services for debts owed to courts or restitution owed under an order of restitution. On and after July 1, 1999, the cost of collection shall be paid by the defendant as an additional court cost in all criminal, traffic and juvenile offender cases where the defendant fails to pay any amount ordered by the court and the court utilizes the services of a contracting

agent pursuant to this section. The cost of collection shall be deemed an administrative fee to pay the actual costs of collection made necessary by the defendant's failure to pay court debt and restitution.

(b) As used in this section:

(1) "Beneficiary under an order of restitution" means the victim or victims of a crime to whom a district court has ordered restitution be paid;

(2) "contracting agent" means a person, firm, agency or other entity who contracts hereunder to provide collection services;

(3) "cost of collection" means the fee specified in contracts hereunder to be paid to or retained by a contracting agent for collection services. Cost of collection also includes any filing fee required under K.S.A. 60-4303, and amendments thereto, or administrative costs prescribed by ~~the attorney general pursuant to rules and regulations~~ *rules of the supreme court*; and

(4) "debts owed to courts" means any assessment of court costs, fines, fees, moneys expended by the state in providing counsel and other defense services to indigent defendants or other charges which a district court judgment has ordered to be paid to the court, and which remain unpaid in whole or in part, and includes any interest or penalties on such unpaid amounts as provided for in the judgment or by law. "Debts owed to courts" also includes: (A) The cost of collection when collection services of a contracting agent hereunder are utilized; and (B) *court costs, fines, fees or other charges arising from failure to comply with a traffic citation within 30 days from the date of the mailing of the notice pursuant to K.S.A. 8-2110(b)(1), and amendments thereto.*

(c) (1) Contracts authorized by this section may be entered into with state or federal agencies or political subdivisions of the state of Kansas, including contracts for participation in the collection program authorized by K.S.A. 75-6201 et seq., and amendments thereto. Such contracts also may be entered into with private firms or individuals selected by a procurement negotiation committee in accordance with K.S.A. 75-37,102, and amendments thereto, except that ~~the attorney general~~ *judicial administrator* shall designate a representative to serve as the chief administrative officer member of such committee and that the other two members of such committee shall be designated by the director of purchases and the judicial administrator.

(2) Prior to negotiating any contract for collection services, this procurement negotiation committee shall advertise for proposals, negotiate with firms and individuals submitting proposals and select among those submitting such proposals the party or parties to contract with for the purpose of collection services.

(3) ~~The attorney general~~ *supreme court* may adopt ~~rules and regulations~~ as deemed appropriate for the administration of this section, including procedures to be used in the negotiation and execution of con-

tracts pursuant to this section and procedures to be followed by those who utilize collection services under such contracts.

(4) For purposes of this section, the agencies, firms or individuals with whom contracts are entered under this section shall be known as contracting agents. The ~~attorney general~~ *judicial administrator* shall publish a list of the contracting agents for use by courts or beneficiaries under orders of restitution who desire to utilize the collection services of such agents.

(5) Each contract entered pursuant to this section shall provide for a fee to be paid to or retained by the contracting agent for collection services. Such fee shall be designated as the cost of collection hereunder, and shall not exceed 33% of the amount collected. The cost of collection shall be paid from the amount collected, but shall not be deducted from the debts owed to courts or restitution. *If a contracting agent uses the debt setoff procedures pursuant to K.S.A. 75-6202 et seq., and amendments thereto, to recover debts owed to the courts, the contracting agent's cost of collection for debt recovered through that program shall be the amount established by contract minus the collection assistance fee imposed by the director of accounts and reports of the department of administration pursuant to K.S.A. 75-6210, and amendments thereto.*

(d) Judicial districts of the state of Kansas are authorized to utilize the collection services of contracting agents pursuant to this section for the purpose of collecting all outstanding debts owed to courts. Subject to rules and orders of the Kansas supreme court, each judicial district may establish by local rule guidelines for the compromise of court costs, fines, attorney fees and other charges assessed in district court cases.

(e) Any beneficiary under an order of restitution entered by a court after this section takes effect is authorized to utilize the collection services of contracting agents pursuant to this section for the purpose of collecting all outstanding amounts owed under such order of restitution.

(f) Contracts entered hereunder shall provide for the payment of any amounts collected to the clerk of the district court for the court in which the debt being collected originated, after first deducting the collection fee. In accounting for amounts collected from any person pursuant to this section, the district court clerk shall credit the person's amount owed in the amount of the net proceeds collected and shall not reduce the amount owed by any person by that portion of any payment which constitutes the cost of collection pursuant to this section.

(g) With the appropriate cost of collection paid to the contracting agent as agreed upon in the contract hereunder, the clerk shall then distribute amounts collected hereunder as follows:

(1) When collection services are utilized pursuant to subsection (d), all amounts shall be applied against the debts owed to the court as specified in the original judgment creating the debt;

(2) when collection services are utilized pursuant to subsection (e),

all amounts shall be paid to the beneficiary under the order of restitution designated to receive such restitution, except where that beneficiary has received recovery from the Kansas crime victims compensation board and such board has subrogation rights pursuant to K.S.A. 74-7312, and amendments thereto, in which case all amounts shall be paid to the board until its subrogation lien is satisfied.

(h) Whenever collection services are being utilized against the same debtor pursuant to both subsections (d) and (e), any amounts collected by a contracting agent shall be first applied to satisfy subsection (e) debts, debts pursuant to an order of restitution. Upon satisfaction of all such debts, amounts received from the same debtor shall then be applied to satisfy subsection (d) debts, debts owed to courts.

Sec. 6. K.S.A. 2014 Supp. 75-6202 is hereby amended to read as follows: 75-6202. As used in this act:

(a) “Debtor” means any person who:

(1) Owes a debt to the state of Kansas or any state agency or any municipality;

(2) owes support to an individual, or an agency of another state, who is receiving assistance in collecting that support under K.S.A. 39-756 or K.S.A. 2014 Supp. 20-378, and amendments thereto, or under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended; or

(3) owes a debt to a foreign state agency.

(b) “Debt” means:

(1) Any liquidated sum due and owing to the state of Kansas, or any state agency, municipality or foreign state agency which has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum. A debt shall not include special assessments except when the owner of the property assessed petitioned for the improvement and any successor in interest of such owner of property; ~~or~~

(2) any amount of support due and owing an individual, or an agency of another state, who is receiving assistance in collecting that support under K.S.A. 39-756 or K.S.A. 2014 Supp. 20-378, and amendments thereto, or under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended, which amount shall be considered a debt due and owing the district court trustee or the Kansas department for children and families for the purposes of this act; *or*

(3) *any assessment of court costs, fines, fees, moneys expended by the state in providing counsel and other defense services to indigent defendants or other charges which a district court judgment has ordered to be paid to the court and which remain unpaid in whole or in part, and includes any interest or penalties on such unpaid amounts as provided*

*for in the judgment or by law. Such amount also includes the cost of collection when the collection services of a contracting agent are utilized.*

(c) “Refund” means any amount of ~~Kansas~~ income tax refund due to any person as a result of an overpayment of tax, and for this purpose, a refund due to a husband and wife resulting from a joint return shall be considered to be separately owned by each individual in the proportion of each such spouse’s contribution to income, as the term “contribution to income” is defined by rules and regulations of the secretary of revenue.

(d) “Net proceeds collected” means gross proceeds collected through final setoff against a debtor’s earnings, refund or other payment due from the state or any state agency minus any collection assistance fee charged by the director of accounts and reports of the department of administration.

(e) “State agency” means any state office, officer, department, board, commission, institution, bureau, agency or authority or any division or unit thereof and any judicial district of this state or the clerk or clerks thereof. “State agency” also shall include any: (1) District court utilizing collection services pursuant to K.S.A. 75-719, and amendments thereto, to collect debts owed to such court; and (2) *contracting agent, as defined in K.S.A. 75-719, and amendments thereto, with which a district court contracts to collect debts owed to such court. Such contracting agent may directly establish a debt setoff account with the director for the sole purpose of collecting debts owed to courts.*

(f) “Person” means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, corporation, other entity or a governmental agency, unit or subdivision.

(g) “Director” means the director of accounts and reports of the department of administration.

(h) “Municipality” means any municipality as defined by K.S.A. 75-1117, and amendments thereto.

(i) “Payor agency” means any state agency which holds money for, or owes money to, a debtor.

(j) “Foreign state or foreign state agency” means the states of Colorado, Missouri, Nebraska or Oklahoma or any agency of such states which has entered into a reciprocal agreement pursuant to K.S.A. 75-6215, and amendments thereto.

Sec. 7. K.S.A. 2014 Supp. 75-6204 is hereby amended to read as follows: 75-6204. (a) Subject to the limitations provided in this act, if a debtor fails to pay to the state of Kansas or any state agency, foreign state agency, municipality or the federal department of the treasury an amount owed, the director may setoff such amount *and a reasonable collection assistance fee determined in accordance with K.S.A. 75-6210, and amendments thereto*, against any money held for, or any money owed to, such debtor by the state or any state agency.

(b) The director may enter into an agreement with a municipality for participation in the setoff program for the purpose of assisting in the collection of a debt as defined by K.S.A. 75-6202, and amendments thereto. The director shall include in any such agreement a provision requiring the municipality to certify that the municipality has made at least three attempts to collect a debt prior to submitting such debt to setoff pursuant to this act.

(c) (1) *Except as provided in subsection (c)(2), the director shall add the cost of collection and the debt for a total amount subject to setoff against a debtor.*

(2) *Any debts due and owing to an individual, the state of Kansas or an agency of another state that are being enforced by the Kansas department for children and families under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended, shall not have the cost of collection added to the debt owed and subject to setoff. Such cost of collection shall be paid by the Kansas department for children and families.*

Sec. 8. K.S.A. 75-6209 is hereby amended to read as follows: 75-6209.

(a) In accordance with the applicable times under K.S.A. 75-6208, and amendments thereto, the director shall complete the setoff by *adding and retaining the collection assistance fee permitted by K.S.A. 75-6210, and amendments thereto, and* transferring the net proceeds collected for credit or payment and by refunding any outstanding balance to the debtor.

(b) Upon completing the setoff, the director shall notify the debtor in writing of the action taken along with an accounting of the action taken. If there is an outstanding balance after setoff, the notice under this section shall accompany the balance when refunded.

(c) When a setoff is completed against earnings of an employee for any pay period and the setoff does not fully liquidate the debt due, further setoff in subsequent pay periods may be made without further certifications or notice to the debtor, except that the director shall notify the debtor in writing of the action taken and give an accounting thereof. The debtor may request an opportunity for hearing in regard to any further setoff in subsequent pay periods by making a written request therefor to the director. Any such request shall not stay future setoffs, but such hearing shall be held within a reasonable time, not to exceed 15 days after the request, unless a longer time has been agreed to by the debtor. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Orders resulting from hearings under this subsection shall not be subject to administrative review.

Sec. 9. K.S.A. 2014 Supp. 75-6210 is hereby amended to read as follows: 75-6210. (a) Upon completion of a setoff transaction, the director

shall transfer the net proceeds collected to the account or fund of the state agency, foreign state agency or municipality to which the debt was owed.

(b) (1) From the gross proceeds collected by the director through setoff, the director shall retain a reasonable collection assistance fee in an amount based on cost, as determined by generally accepted cost allocation techniques, except that in the case of transactions for collection of debts arising from the employment security law such fee shall not exceed \$300 for any transaction. *Except as provided further, the director shall add the collection assistance fee to the debt after the debt is submitted to the director in accordance with K.S.A. 75-6206, and amendments thereto. Any debts due and owing to an individual, the state of Kansas or an agency of another state that are being enforced by the Kansas department for children and families under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended, shall not have the collection assistance fee added to the debt owed and subject to setoff, and such fee shall be paid by the Kansas department for children and families.*

(2) The director shall retain a reasonable collection assistance fee from the gross proceeds of collections through setoff on behalf of a municipality as specified in an agreement entered into pursuant to K.S.A. 75-6204, and amendments thereto, or foreign state agency in such amount as specified in the reciprocal agreement entered into pursuant to K.S.A. 75-6215, and amendments thereto.

(3) The collection assistance fee shall be paid as an additional cost for all debts owed to the court when the court utilizes debt setoff procedures pursuant to K.S.A. 75-6202 et seq., and amendments thereto. The collection assistance fee shall be retained from the amount collected, but shall not be deducted from the debts owed to the court.

(4) The director may credit a portion of the collection assistance fee to the appropriate account or fund of any other state agency that has incurred expenses in assisting in the collection of the debt.

(5) The amount of the collection assistance fee retained 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 accounting services recovery fund.

(c) Upon receipt by the state agency, foreign state agency or municipality of the net proceeds collected, the state agency, foreign state agency or municipality shall credit the debtor's obligation in the amount of the gross proceeds collected.

(d) Except as otherwise prescribed by the director or the secretary of administration, any state agency, foreign state agency or municipality which receives any payment from a debtor after notification to the debtor under K.S.A. 75-6206, and amendments thereto, other than payments collected pursuant to K.S.A. 44-718, and amendments thereto, or col-

lected through the federal government or judicial process, shall remit the collection assistance fee imposed under subsection (b) to the director which shall be credited to the accounting services recovery fund. If a state agency fails to remit the collection assistance fee as required by this subsection, the director may transfer an amount equal to such collection assistance fee from the appropriate account or fund of the state agency to the accounting services recovery fund. If a foreign state agency or municipality fails to remit the collection assistance fee as required by this subsection, the director may seek collection of such fee in such manner as may be allowed by law.

(e) In cases involving the collection of debts arising from the employment security law, the entire amount collected shall be credited to the employment security fund and the collection assistance fee shall be transferred from the special employment security fund to the accounting services recovery fund.

Sec. 10. K.S.A. 20-3127 and 75-6209 and K.S.A. 2014 Supp. 20-302b, 60-2003, 60-2403, 75-719, 75-6202, 75-6204 and 75-6210 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 14, 2015.

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## CHAPTER 54

### HOUSE BILL No. 2051

AN ACT concerning crimes, punishment and criminal procedure; relating to the secretary of corrections; good time and program credits; community corrections; use of risk assessment tool; amending K.S.A. 2014 Supp. 21-6821 and 75-5291 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 21-6821 is hereby amended to read as follows: 21-6821. (a) The secretary of corrections is hereby authorized to adopt rules and regulations providing for a system of good time calculations. Such rules and regulations shall provide circumstances upon which an inmate may earn good time credits and for the forfeiture of earned credits. Such circumstances may include factors related to program and work participation and conduct and the inmate's willingness to examine and confront past behavioral patterns that resulted in the commission of the inmate's crimes.

(b) For purposes of determining release of an inmate, the following shall apply with regard to good time calculations:

(1) Good behavior by inmates is the expected norm and negative behavior will be punished; and

(2) the amount of good time which can be earned by an inmate and subtracted from any sentence is limited to:

(A) For a crime committed on or after July 1, 1993, an amount equal to 15% of the prison part of the sentence;

(B) for a nondrug severity level 7 through 10 crime committed on or after January 1, 2008, an amount equal to 20% of the prison part of the sentence; or

(C) for a drug severity level 3 or 4 crime committed on or after January 1, 2008, but prior to July 1, 2012, or a drug severity level ~~4~~ or 3 through 5 crime committed on or after July 1, 2012, an amount equal to 20% of the prison part of the sentence.

(c) The postrelease supervision term of a person sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, a sexually motivated crime in which the offender has been ordered to register pursuant to ~~subsection (d)(1)(D)(vii) of~~ K.S.A. 22-3717(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2014 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2014 Supp. 21-5512, and amendments thereto, shall have any time which is earned and subtracted from the prison part of such sentence and any other consecutive or concurrent sentence pursuant to good time calculation added to such inmate's postrelease supervision term.

(d) An inmate shall not be awarded good time credits pursuant to this section for any review period established by the secretary of corrections in which a court finds that the inmate has done any of the following while in the custody of the secretary of corrections:

(1) Filed a false or malicious action or claim with the court;

(2) brought an action or claim with the court solely or primarily for delay or harassment;

(3) testified falsely or otherwise submitted false evidence or information to the court;

(4) attempted to create or obtain a false affidavit, testimony or evidence; or

(5) abused the discovery process in any judicial action or proceeding.

(e) (1) For purposes of determining release of an inmate who is serving only a sentence for a nondrug severity level 4 through 10 crime or a drug severity level 3 or 4 crime committed on or after January 1, 2008, but prior to July 1, 2012, or an inmate who is serving only a sentence for a nondrug severity level 4 through 10 crime or a drug severity level ~~4~~ or 3 through 5 crime committed on or after July 1, 2012, the secretary of corrections is hereby authorized to adopt rules and regulations regarding program credit calculations. Such rules and regulations shall provide cir-

cumstances upon which an inmate may earn program credits and for the forfeiture of earned credits and such circumstances may include factors substantially related to program participation and conduct. In addition to any good time credits earned and retained, the following shall apply with regard to program credit calculations:

(A) A system shall be developed whereby program credits may be earned by inmates for the successful completion of requirements for a general education diploma, a technical or vocational training program, a substance abuse treatment program or any other program designated by the secretary which has been shown to reduce offender's risk after release; and

(B) the amount of time which can be earned and retained by an inmate for the successful completion of programs and subtracted from any sentence is limited to not more than ~~60~~ 90 days.

(2) Any time which is earned and subtracted from the prison part of the sentence of any inmate pursuant to program credit calculation shall not be added to such inmate's postrelease supervision term, if applicable, except that the postrelease supervision term of a person sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, a sexually motivated crime in which the offender has been ordered to register pursuant to ~~subsection (d)(1)(D)(vii)~~ of K.S.A. 22-3717(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2014 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2014 Supp. 21-5512, and amendments thereto, shall have any time which is earned and subtracted from the prison part of such sentence and any other consecutive or concurrent sentence pursuant to program credit calculation added to such inmate's postrelease supervision term.

(3) When separate sentences of imprisonment for different crimes are imposed on a defendant on the same date, a defendant shall only be eligible for program credits if such crimes are a nondrug severity level 4 through 10, a drug severity level 3 or 4 committed prior to July 1, 2012, or a drug severity level ~~4 or~~ 3 through 5 committed on or after July 1, 2012.

(4) Program credits shall not be earned by any offender successfully completing a sex offender treatment program.

(5) The secretary of corrections shall report to the Kansas sentencing commission and the Kansas reentry policy council the data on the program credit calculations.

(f) *The state of Kansas, the secretary of corrections and the secretary's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission in making the good time and program credit calculations authorized by this section.*

(g) *The secretary of corrections shall make the good time and program*

*credit calculations authorized by the amendments to this section by this act no later than January 1, 2016.*

*(h) The amendments to this section by this act shall be construed and applied retroactively.*

Sec. 2. K.S.A. 2014 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127, and amendments thereto.

(2) Except as otherwise provided, placement of offenders in a community correctional services program by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) ~~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-C, 3-D, 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes for crimes committed prior to July 1, 2012, or in grid blocks 4-C, 4-D, 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes for crimes committed on or after July 1, 2012. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes~~ *Who, on or after July 1, 2014, are determined to be moderate risk, high risk or very high risk by use of a statewide, mandatory, standardized risk assessment tool or instrument which shall be specified by the Kansas sentencing commission;*

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) all offenders convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) any offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being 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;

~~(E)~~ on and after January 1, 2011, for offenders who are expected to be subject to supervision in Kansas, who are determined to be “high risk or needs, or both” by the use of a statewide, mandatory, standardized risk assessment tool or instrument which shall be specified by the Kansas sentencing commission;

~~(F)~~~~(E)~~ placed in a community correctional services program as a condition of supervision following the successful completion of a conservation camp program;

~~(G)~~~~(F)~~ who have been sentenced to community corrections supervision pursuant to K.S.A. 21-4729, prior to its repeal, or K.S.A. 2014 Supp. 21-6824, and amendments thereto; or

~~(H)~~~~(G)~~ who have been placed in a community correctional services program for supervision by the court pursuant to K.S.A. 8-1567, and amendments thereto.

(3) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before July 1, 2013, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this paragraph shall expire on July 1, 2013.

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

(5) 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 K.S.A. 22-3716, and amendments thereto, 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.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community corrections advisory committee to identify new or enhanced correctional or treatment interventions designed to divert offenders from prison.

(2) The secretary shall appoint one member from the southeast community corrections region, one member from the northeast community corrections region, one member from the central community corrections region and one member from the western community corrections region. The deputy secretary of community and field services shall designate two members from the state at large. The secretary shall have final appointment approval of the members designated by the deputy secretary. The committee shall reflect the diversity of community correctional services with respect to geographical location and average daily population of offenders under supervision.

(3) Each member shall be appointed for a term of three years and such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

(4) The committee, in collaboration with the deputy secretary of community and field services or the deputy secretary's designee, shall routinely examine and report to the secretary on the following issues:

- (A) Efficiencies in the delivery of field supervision services;
- (B) effectiveness and enhancement of existing interventions;
- (C) identification of new interventions; and
- (D) statewide performance indicators.

(5) The committee's report concerning enhanced or new interventions shall address:

- (A) Goals and measurable objectives;
- (B) projected costs;
- (C) the impact on public safety; and
- (D) the evaluation process.

(6) The committee shall submit its report to the secretary annually on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

Sec. 3. K.S.A. 2014 Supp. 21-6821 and 75-5291 are hereby repealed.

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

Approved May 14, 2015.

Published in the *Kansas Register* May 21, 2015.

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## CHAPTER 55

Senate Substitute for HOUSE BILL No. 2042

AN ACT concerning statutorily created boards, councils and committees; amending K.S.A. 2014 Supp. 39-7,160 and 39-1605 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 39-7,160 is hereby amended to read as follows: 39-7,160. (a) There is hereby established the Robert G. (Bob) Bethell joint committee on home and community based services and KanCare oversight. The joint committee shall review the number of individuals who are transferred from state or private institutions and long-term care facilities to the home and community based services and the associated cost savings and other outcomes of the money-follows-the-person program. The joint committee shall review the funding targets recommended by the interim report submitted for the 2007 legislature by the joint committee on legislative budget and use them as guidelines for future funding planning and policy making. The joint committee shall have oversight of savings resulting from the transfer of individuals from state or private institutions to home and community based services. As used in K.S.A. 2014 Supp. 39-7,159 through 39-7,162, and amendments thereto, "savings" means the difference between the average cost of providing services for individuals in an institutional setting and the cost of providing services in a home and community based setting. The joint committee shall study and determine the effectiveness of the program and cost-analysis of the state institutions or long-term care facilities based on the success of the transfer of individuals to home and community based services. The joint committee shall consider the issues of whether sufficient funding is provided for enhancement of wages and benefits of direct individual care workers and their staff training and whether adequate progress is being made to transfer individuals from the institutions and to move them from the waiver waiting lists to receive home and community based services. The joint committee shall review and ensure that any proceeds resulting from the successful transfer be applied to the system of provision of services for long-term care and home and community based services. The joint committee shall monitor and study the implementation and operations of the home and community based service programs, the children's health insurance program, the program for the all-inclusive care of the elderly and the state medicaid programs including, but not limited to, access to and quality of services provided and any financial information and budgetary issues. Any state agency shall provide data and information on KanCare programs, including, but not limited to, pay for performance measures, quality measures and enrollment and disenrollment in specific plans, KanCare provider network data and ap-

peals and grievances made to the KanCare ombudsman, to the joint committee, as requested.

(b) The joint committee shall consist of 11 members of the legislature appointed as follows: (1) Two members of the house committee on health and human services appointed by the speaker of the house of representatives; (2) one member of the house committee on health and human services appointed by the minority leader of the house of representatives; (3) two members of the senate committee on public health and welfare appointed by the president of the senate; (4) one member of the senate committee on public health and welfare appointed by the minority leader of the senate; (5) ~~one member of the house committee on appropriations appointed by the chairperson of the house committee on appropriations;~~ (6) ~~one member of the senate committee on ways and means appointed by the chairperson of the senate committee on ways and means;~~ (7) one member of the house committee on appropriations appointed by the ranking minority member of the house committee on appropriations; (8) ~~one member of the senate committee on ways and means appointed by the ranking minority member of the senate committee on ways and means;~~ and (9) ~~one member~~ *two members* of the house of representatives appointed by the ~~majority leader~~ *speaker* of the house of representatives, *one of whom shall be a member of the house committee on appropriations;* (6) *one member of the house of representatives appointed by the minority leader of the house of representatives;* and (7) *two members of the senate appointed by the president of the senate, one of whom shall be a member of the senate committee on ways and means.*

(c) Members shall be appointed for terms coinciding with the legislative terms for which such members are elected or appointed. All members appointed to fill vacancies in the membership of the joint committee and all members appointed to succeed members appointed to membership on the joint committee shall be appointed in the manner provided for the original appointment of the member succeeded.

(d) The members originally appointed as members of the joint committee shall meet upon the call of the member appointed by the speaker of the house of representatives, who shall be the first chairperson, within 30 days of the effective date of this act. The vice-chairperson of the joint committee shall be appointed by the president of the senate. Chairperson and vice-chairperson shall alternate annually between the members appointed by the speaker of the house of representatives and the president of the senate. The ranking minority member shall be from the same chamber as the chairperson. On and after the effective date of this act, the joint committee shall meet at least once in January and once in April when the legislature is in regular session and at least once *for two consecutive days* during each of the third and fourth calendar quarters, on the call of the chairperson, but not to exceed six meetings in a calendar year, except additional meetings may be held on call of the chairperson

when urgent circumstances exist which require such meetings. Six members of the joint committee shall constitute a quorum.

(e) (1) At the beginning of each regular session of the legislature, the committee shall submit to the president of the senate, the speaker of the house of representatives, the house committee on health and human services and the senate committee on public health and welfare a written report on numbers of individuals transferred from the state or private institutions to the home and community based services including the average daily census in the state institutions and long-term care facilities, savings resulting from the transfer certified by the secretary for aging and disability services in a quarterly report filed in accordance with K.S.A. 2014 Supp. 39-7,162, and amendments thereto, and the current balance in the home and community based services savings fund of the Kansas department for aging and disability services.

(2) Such report submitted under this subsection shall also include, but not be limited to, the following information on the KanCare program:

(A) Quality of care and health outcomes of individuals receiving state medicaid services under the KanCare program, as compared to the provision of state medicaid services prior to January 1, 2013;

(B) integration and coordination of health care procedures for individuals receiving state medicaid services under the KanCare program;

(C) availability of information to the public about the provision of state medicaid services under the KanCare program, including, but not limited to, accessibility to health services, expenditures for health services, extent of consumer satisfaction with health services provided and grievance procedures, including quantitative case data and summaries of case resolution by the KanCare ombudsman;

(D) provisions for community outreach and efforts to promote the public understanding of the KanCare program;

(E) comparison of the actual medicaid costs expended in providing state medicaid services under the KanCare program after January 1, 2013, to the actual costs expended under the provision of state medicaid services prior to January 1, 2013, including the manner in which such cost expenditures are calculated;

(F) comparison of the estimated costs expended in a managed care system of providing state medicaid services under the KanCare program after January 1, 2013, to the actual costs expended under the KanCare program of providing state medicaid services after January 1, 2013;

(G) comparison of caseload information for individuals receiving state medicaid services prior to January 1, 2013, to the caseload information for individuals receiving state medicaid services under the KanCare program after January 1, 2013; and

(H) all written testimony provided to the joint committee regarding the impact of the provision of state medicaid services under the KanCare program upon residents of adult care homes.

(3) The joint committee shall consider the external quality review reports and quality assessment and performance improvement program plans of each managed care organization providing state medicaid services under the KanCare program in the development of the report submitted under this subsection.

(4) The report submitted under this subsection shall be published on the official website of the legislative research department.

(f) Members of the committee shall have access to any medical assistance report and caseload data generated by the Kansas department of health and environment division of health care finance. Members of the committee shall have access to any report submitted by the Kansas department of health and environment division of health care finance to the centers for medicare and medicaid services of the United States department of health and human services.

(g) Members of the committee shall be paid compensation, travel expenses and subsistence expenses or allowance as provided in K.S.A. 75-3212, and amendments thereto, for attendance at any meeting of the joint committee or any subcommittee meeting authorized by the committee.

(h) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee.

(i) The joint committee may make recommendations and introduce legislation as it deems necessary in performing its functions.

Sec. 2. K.S.A. 2014 Supp. 39-1605 is hereby amended to read as follows: 39-1605. (a) There is hereby established the governor's behavioral health services planning council. The council shall consist of ~~33~~ 34 members.

(b) So the composition of the council is in compliance with the requirements of public law 102-321 and supplementary federal acts, ~~persons appointed to membership on~~ the council will be in accordance with the following:

(1) Nine members shall be state agency representatives who shall include:

(A) The secretary for aging and disability services or the secretary's designee;

(B) the secretary for children and families shall appoint one member for each of the following areas: Vocational rehabilitation and children and family services;

(C) ~~the commissioner of juvenile justice, or the commissioner's designee~~ *deputy secretary of juvenile services of the department of corrections or the deputy secretary's designee;*

(D) the commissioner of education;

(E) the secretary of corrections;

(F) the secretary of commerce. If a commissioner or secretary is un-

able to participate, the commissioner or secretary shall appoint a designee as the official member of the council; and

(G) the secretary for aging and disability services shall appoint one member for each of the following areas: Substance use disorder services and medical services.

(2) The governor shall appoint the following persons to the council:

(A) One member shall be a person licensed to practice medicine and surgery with board certification in psychiatry;

(B) two members shall be executive directors of mental health centers;

(C) one member shall be a representative of a behavioral health advocacy group;

(D) one member shall be a substance use disorder prevention professional;

(E) one member shall be an executive director of a substance use disorder treatment center;

(F) one member shall be a judge of the district court or a district magistrate judge;

(G) 17 members shall be individuals who are not state employees or providers of behavioral health services. Of the 17 members, four members shall be adult consumers with serious and persistent mental illness; two members shall be immediate family members of adult consumers with serious and persistent mental illnesses; four members shall be family members of minor children or youth with severe emotional disturbance; one member shall be a youth at least 16 years of age but not more than 18 years of age at the time of appointment with severe emotional disturbance; two members shall be adults in recovery from substance use disorders; one member shall be a family member of an adult with a substance use disorder; one member shall be a mentor to an adult with a substance use disorder; and two members shall be members of the general public.

(3) *One member shall be the governor's tribal liaison.*

(c) A member of the council prior to the effective date of this act whose term expires after June 30, 2013, shall continue to serve as a member of the council until the expiration of the term of the member. Except as otherwise provided in this subsection and in subsection (d), each member appointed to the council by the governor on and after July 1, 2013, shall be appointed for a term of four years. Of the nine new members authorized by this act, four shall be appointed for an initial term of two years and five shall be appointed for an initial term of four years as specified by the governor.

(d) Each member of the council shall serve until a successor is appointed and qualified. In the case of a vacancy on the council, a successor of like qualifications shall be appointed or designated to fill the unexpired term in accordance with subsection (b).

(e) The governor shall designate the chairperson of the council. The members of the council shall elect a vice-chairperson.

(f) Members of the governor's behavioral health services planning council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in ~~subsection (e) of K.S.A. 75-3223(e)~~, and amendments thereto, from the administration account of the state general fund appropriated for the Kansas department for aging and disability services.

(g) Whenever the governor's mental health services planning council, or words of like effect, are referred to in a statute, contract or other document, such reference or designation shall be deemed to apply to the governor's behavioral health services planning council.

Sec. 3. K.S.A. 2014 Supp. 39-7,160 and 39-1605 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 14, 2015.

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## CHAPTER 56

### Senate Substitute for HOUSE BILL No. 2043

AN ACT concerning the secretary for aging and disability services; powers, duties and functions; relating to programs for all-inclusive care for the elderly; amending K.S.A. 75-5308d and 76-12a24 and K.S.A. 2014 Supp. 8-2,144, 8-1025, 39-923, 59-29a24, 65-6233, 75-53,105 and 75-6524 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 75-53,105 is hereby amended to read as follows: 75-53,105. (a) *As used in this section, "secretary" means the secretary for children and families or the secretary for aging and disability services.*

(b) ~~The secretary for children and families shall upon request receive from the Kansas bureau of investigation such criminal history record information as necessary for the purpose of determining initial and continuing qualification for employment or for participation in any program administered by the secretary for the placement, safety, protection or treatment of vulnerable children or adults.~~

~~(b)~~(c) The secretary shall have access to any court orders or adjudications of any court of record, any records of such orders, adjudications, arrests, nonconvictions, convictions, expungements, juvenile records, juvenile expungements, diversions and any criminal history record information in the possession of the Kansas bureau of investigation concerning such employee or individual.

~~(c)~~(d) If a nationwide criminal records check of all records noted

above is necessary, as determined by the secretary, the secretary's request will be based on the submission of fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for the identification of the individual and to obtain criminal history record information, including arrest and nonconviction data.

~~(d)~~(e) Fees for such records checks shall be assessed to the secretary.

~~(e)~~(f) Disclosure or use of any such information received by the secretary or a designee of the secretary or of any record containing such information, for any purpose other than that provided by this act is a class A misdemeanor and shall constitute grounds for removal from office or termination of employment. Nothing in this act shall be construed to make unlawful or prohibit the disclosure of any such information in a hearing or court proceeding involving programs administered by the secretary or prohibit the disclosure of any such information to the post auditor in accordance with and subject to the provisions of the legislative post audit act.

Sec. 2. K.S.A. 2014 Supp. 8-2,144 is hereby amended to read as follows: 8-2,144. (a) Driving a commercial motor vehicle under the influence is operating or attempting to operate any commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within this state while:

(1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, as defined in ~~paragraph (1) of subsection (f) of K.S.A. 8-1013(f)(1), and~~ amendments thereto, is 0.04 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within three hours of the time of driving a commercial motor vehicle, is 0.04 or more; or

(3) committing a violation of ~~subsection (a) of K.S.A. 8-1567(a), and~~ amendments thereto, or the ordinance of a city or resolution of a county which prohibits any of the acts prohibited thereunder.

(b) (1) Driving a commercial motor vehicle under the influence is:

(A) On a first conviction a class B, nonperson misdemeanor. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion, 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation, suspension or reduction of sentence or parole or other release;

(B) on a second conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive

days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours; and

(C) on a third or subsequent conviction a nonperson felony. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence

provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) In addition, for any conviction pursuant to subsection (b)(1)(C), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 2014 Supp. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office designated by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a *Kansas department of social and rehabilitation for aging and disability* services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the ~~of social and rehabilitation~~ *aging and disability* services department designated treatment provider and the offender. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof.

(3) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of a violation of this section, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment shall

be served consecutively to any other minimum mandatory penalty imposed for a violation of this section, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this section, 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 not later than one year after the fine is imposed 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.

(g) Prior to filing a complaint alleging a violation of this section, a prosecutor shall request and shall receive from the: (1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and (2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(h) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section, the court shall request and shall receive from the: (1) Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state; and (2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(i) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall: (1) Disqualify the person from driving a commercial motor

vehicle under K.S.A. 8-2,142, and amendments thereto; and (2) suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(j) (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 section 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.

(3) Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(k) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the: (A) Division of vehicles a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and (B) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(2) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution. The county or district attorney shall accept such referral and pursue a disposition of such violation, and shall not refer any such violation back to the city attorney.

(l) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance or resolution.

(m) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.

(n) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such 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, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account: (A) This section; (B) refusing to submit to a test to determine the presence of alcohol or drugs, K.S.A. 2014 Supp. 8-1025, and amendments thereto; (C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or ~~subsection (a)(3) of K.S.A. 2014 Supp. 21-5405(a)(3)~~, and amendments thereto; (E) aggravated battery as described in ~~subsection (b)(3) of K.S.A. 2014 Supp. 21-5413(b)(3)~~, and amendments thereto; and (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) "conviction" includes: (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (n)(2); (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (n)(1) or (n)(2); and (C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (n)(1) or (n)(2) if committed off a military reservation in this state;

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(5) multiple convictions of any crime described in subsection (n)(1) or (n)(2) arising from the same arrest shall only be counted as one conviction.

(o) For the purpose of this section:

(1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;

(2) "imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and

(3) "drug" includes toxic vapors as such term is defined in K.S.A. 2014 Supp. 21-5712, and amendments thereto.

(p) On and after July 1, 2011, the amount of \$250 from each fine

imposed pursuant to this section shall be remitted by the clerk of the district court 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 credit the entire amount to the community corrections supervision fund established by K.S.A. 2014 Supp. 75-52,113, and amendments thereto.

Sec. 3. K.S.A. 2014 Supp. 8-1025 is hereby amended to read as follows: 8-1025. (a) Refusing to submit to a test to determine the presence of alcohol or drugs is refusing to submit to or complete a test or tests deemed consented to under ~~subsection (a) of~~ K.S.A. 8-1001(a), and amendments thereto, if such person has:

(1) Any prior test refusal as defined in K.S.A. 8-1013, and amendments thereto, which occurred: (A) On or after July 1, 2001; and (B) when such person was 18 years of age or older; or

(2) any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, which occurred: (A) On or after July 1, 2001; and (B) when such person was 18 years of age or older.

(b) (1) Refusing to submit to a test to determine the presence of alcohol or drugs is:

(A) On a first conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum

of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;

(B) on a second conviction a class A, nonperson misdemeanor, except as provided in subsection (b)(1)(C). The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours;

(C) on a second conviction a nonperson felony if the person has a prior conviction which occurred within the preceding 10 years, not including any period of incarceration. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court

may place the person convicted under a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours; and

(D) on a third or subsequent conviction a nonperson felony. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 72 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 72 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 72 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) The court may order that the term of imprisonment imposed pursuant to subsection (b)(1)(C) or (b)(1)(D) be served in a state facility in the custody of the secretary of corrections in a facility designated by the secretary for the provision of substance abuse treatment pursuant to the provisions of K.S.A. 2014 Supp. 21-6804, and amendments thereto. The person shall remain imprisoned at the state facility only while participating in the substance abuse treatment program designated by the secretary and shall be returned to the custody of the sheriff for execution of the balance of the term of imprisonment upon completion of or the person's discharge from the substance abuse treatment program. Custody of the person shall be returned to the sheriff for execution of the sentence im-

posed in the event the secretary of corrections determines: (A) That substance abuse treatment resources or the capacity of the facility designated by the secretary for the incarceration and treatment of the person is not available; (B) the person fails to meaningfully participate in the treatment program of the designated facility; (C) the person is disruptive to the security or operation of the designated facility; or (D) the medical or mental health condition of the person renders the person unsuitable for confinement at the designated facility. The determination by the secretary that the person either is not to be admitted into the designated facility or is to be transferred from the designated facility is not subject to review. The sheriff shall be responsible for all transportation expenses to and from the state correctional facility.

(3) In addition, for any conviction pursuant to subsection (b)(1)(B), (b)(1)(C) or (b)(1)(D), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 2014 Supp. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office designated by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a *Kansas* department of ~~social and rehabilitation~~ *for aging and disability* services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the ~~social and rehabilitation~~ *aging and disability* services department designated treatment provider and the offender. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof.

(4) In addition, prior to sentencing for any conviction pursuant to

subsection (b)(1)(A), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessments and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(e) In lieu of payment of a fine imposed pursuant to this section, 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 not later than one year after the fine is imposed 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.

(f) Prior to filing a complaint alleging a violation of this section, a prosecutor shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(g) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(h) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such 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, but only convictions or diversions occurring: (A) On or after July 1, 2001; and (B) when such person was 18 years of age or older. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections which occurred during a person's lifetime shall be taken into account, but only convictions occurring when such person was 18 years of age or older: (A) This section; (B) driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto; (C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or ~~subsection (a)(3) of K.S.A. 2014 Supp. 21-5405(a)(3)~~, and amendments thereto; (E) aggravated battery as described in ~~subsection (b)(3) of K.S.A. 2014 Supp. 21-5413(b)(3)~~, and amendments thereto; and (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular homicide, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) "conviction" includes: (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (h)(2); (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (h)(1) or (h)(2); and (C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (h)(1) or (h)(2) if committed off a military reservation in this state;

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense;

(5) multiple convictions of any crime described in subsection (h)(1) or (h)(2) arising from the same arrest shall only be counted as one conviction;

(6) the prior conviction that is an element of the crime of refusing to submit to a test to determine the presence of alcohol or drugs shall not

be used for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section and shall not be considered in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense; and

(7) 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.

(i) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(j) (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.

(3) An ordinance may grant to a municipal court jurisdiction over a violation of such ordinance which is concurrent with the jurisdiction of the district court over a violation of this section, notwithstanding that the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony.

(4) Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(k) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(A) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(B) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(2) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution.

(l) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

(m) As used in this section, “imprisonment” shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

(n) On and after July 1, 2012, the amount of \$250 from each fine imposed pursuant to this section shall be remitted by the clerk of the district court 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 credit the entire amount to the community corrections supervision fund established by K.S.A. 2014 Supp. 75-52,113, and amendments thereto.

Sec. 4. K.S.A. 2014 Supp. 59-29a24 is hereby amended to read as follows: 59-29a24. (a) Any patient in the custody of the secretary of ~~social and rehabilitation~~ *for aging and disability* services pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, prior to filing any civil action naming as the defendant pursuant to the rules of civil procedure, the state of Kansas, any political subdivision of the state of Kansas, any public official, the secretary of ~~social and rehabilitation~~ *for aging and disability* services or an employee of the ~~Kansas department of social and rehabilitation~~ *for aging and disability* services, while such employee is engaged in the performance of such employee’s duty, shall be required to have exhausted such patient’s administrative remedies, established by procedures adopted pursuant to ~~subsection (d) of~~ K.S.A. 59-29a22(d), and amendments thereto, concerning such civil action. Upon filing a petition in a civil action, such patient shall file with such petition proof that the administrative remedies have been exhausted.

(b) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that:

- (1) The allegation of poverty is untrue, notwithstanding the fact that a filing fee, or any portion thereof has been paid; or
- (2) the action or appeal:
  - (A) Is frivolous or malicious;
  - (B) fails to state a claim on which relief may be granted; or

(C) seeks monetary relief against a defendant who is immune from such relief.

(c) In no event shall such patient bring a civil action or appeal a judgment in a civil action or proceeding under this section if such patient has, on three or more prior occasions, while in the custody of the secretary ~~of social and rehabilitation~~ *for aging and disability* services pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, brought an action or appeal in a court of the state of Kansas or of the United States that was dismissed on the grounds that it was frivolous, malicious or failed to state a claim upon which relief may be granted, unless the patient is under imminent danger of serious physical injury.

(d) The provisions of this section shall not apply to a writ of habeas corpus.

Sec. 5. K.S.A. 2014 Supp. 65-6233 is hereby amended to read as follows: 65-6233. (a) The department of health and environment, in conjunction with the *Kansas* department ~~of social and rehabilitation~~ *for aging and disability* services, shall review and update its rules and regulations establishing eligibility requirements for the Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq. Such review shall include the establishment of a procedure which permits the holder of a life insurance policy which has a cash surrender value to give the Kansas program of medical assistance established in accordance with title XIX of the federal social security act a collateral assignment of the proceeds of such life insurance policy. The collateral assignment may be used by the insured in lieu of any requirement that such life insurance policy be sold in order for the insured to meet any property ownership limitation contained in any eligibility requirement for participation in the Kansas program of medical assistance established in accordance with title XIX of the federal social security act. The collateral assignment shall be for an amount not to exceed the proceeds of such policy necessary to reimburse the Kansas program of medical assistance established in accordance with title XIX of the federal social security act for any amount paid by such program for medical benefits provided to the insured. The collateral assignment shall be irrevocable as established by a written agreement binding on the holder of the life insurance policy to not affect or otherwise use the cash surrender value of such policy after the irrevocable assignment pursuant to rules and regulations promulgated by the secretary of the department of health and environment.

(b) The department of health and environment is hereby directed to seek any necessary waivers from program requirements of the federal government as may be needed to carry out the provisions of this section and to maximize federal matching and other funds with respect to the provisions of this section. If the department of health and environment

determines that one or more waivers from program requirements of the federal government are needed to carry out the provisions of this section, the department of health and environment shall implement the provisions of this section only if such waivers to federal program requirements have been obtained from the federal government.

(c) (1) Except as provided in paragraph (2), the review and update of the rules and regulations establishing eligibility requirements for the Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., shall be completed and the revisions of such rules and regulations shall be adopted in accordance with the rules and regulations filing act no later than 12 calendar months following the date of receipt of the waivers required under subsection (b).

(2) If the department of health and environment determines that no waivers are required to implement the provisions of subsection (a), the review and update of the rules and regulations establishing eligibility requirements for the Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., shall be completed and the revisions of such rules and regulations shall be adopted in accordance with the rules and regulations filing act no later than 12 calendar months following the effective date of this act.

Sec. 6. K.S.A. 75-5308d is hereby amended to read as follows: 75-5308d. Mental health and retardation services created by the provisions of K.S.A. 75-5308b is hereby abolished and all of the powers, duties and functions of such division are transferred to and conferred and imposed upon mental health and developmental disabilities established pursuant K.S.A. 75-5308e, *and amendments thereto*, under the supervision of the secretary of social and rehabilitation for aging and disability services as part of the ~~Kansas department of social and rehabilitation for aging and disability~~ services. The commissioner of mental health and retardation services created by K.S.A. 75-5308b is hereby abolished and all of the powers, duties and functions of such commissioner are transferred to and conferred and imposed upon the commissioner of mental health and developmental disabilities appointed pursuant to K.S.A. 75-5308e, *and amendments thereto*.

Sec. 7. K.S.A. 2014 Supp. 75-6524 is hereby amended to read as follows: 75-6524. (a) In the coverage for the next health plan coverage year commencing on January 1, 2011, the state employees health care commission shall provide for the coverage of services for the diagnosis and treatment of autism spectrum disorder in any covered individual whose age is less than 19 years. Such coverage shall be subject to the following terms and conditions:

(1) Such coverage shall be provided in a manner determined in con-

sultation with the autism services provider and the patient. Services provided by an autism services provider under this section shall include applied behavioral analysis when required by a licensed physician, licensed psychologist or licensed specialist clinical social worker but otherwise shall be limited to those services prescribed or ordered by a licensed physician, licensed psychologist or licensed specialist clinical social worker. Services provided pursuant to this paragraph shall be those services which are or have been recognized by peer reviewed literature as providing medical benefit to the patient based upon the patient's particular autism spectrum disorder.

(2) Such coverage may be subject to appropriate annual deductibles and coinsurance provisions as are consistent with those established for other physical illness benefits under the state employees health plan.

(3) Coverage for benefits for any covered person diagnosed with one or more autism spectrum disorders and whose age is between birth and less than seven years shall not exceed \$36,000 per year.

(4) Coverage for benefits for any covered person diagnosed with one or more autism spectrum disorders and whose age is at least seven years and less than 19 years shall not exceed \$27,000 per year.

(5) Coverages required under paragraphs (3) and (4) shall be subject to the same copays, deductibles and dollar limits as benefits for physical illness; and such other utilization or benefit limits as the state employees health care commission may determine.

(6) 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 of social and rehabilitation for aging and disability* services Kansas autism waiver as it exists on July 1, 2010.

(7) Any insurer or other entity which administers claims for services provided for the treatment of autism spectrum disorder under this section, and amendments thereto, shall have the right and obligation to:

(A) Review utilization of such services; and

(B) 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.

(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 the following disorders within the autism spectrum: Autistic disorder, Asperger's syndrome and perva-

sive developmental disorder not otherwise specified, as such terms are specified in the diagnostic and statistical manual of mental disorders, fourth edition, text revision (DSM-IV-TR), of the American psychiatric association, as published in May, 2000, or later versions as established in rules and regulations adopted by the behavioral sciences regulatory board pursuant to K.S.A. 74-7507, and amendments thereto.

(3) “Diagnosis of autism spectrum disorder” means any medically necessary assessment, evaluation or test to determine whether an individual has an autism spectrum disorder.

(c) (1) Pursuant to the provisions of K.S.A. 40-2249a, and amendments thereto, on or before March 1, 2012, the state employees health care commission shall submit to the president of the senate and to the speaker of the house of representatives, a report including the following information pertaining to the mandated coverage for autism spectrum disorder provided during the plan year commencing on January 1, 2011, and ending on December 31, 2011:

(A) The impact that the mandated coverage for autism spectrum disorder required by subsection (a) has had on the state health care benefits program;

(B) data on the utilization of coverage for autism spectrum disorder by covered individuals and the cost of providing such coverage for autism spectrum disorder; and

(C) a recommendation whether such mandated coverage for autism spectrum disorder should continue for the state health care benefits program or whether additional utilization and cost data is required.

(2) At the next legislative session following receipt of the report required in paragraph (1), the legislature may consider whether or not to require the coverage for autism spectrum disorder required by subsection (a) to be included in 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 and which is delivered, issued for delivery, amended or renewed in this state on or after July 1, 2013.

Sec. 8. K.S.A. 76-12a24 is hereby amended to read as follows: 76-12a24. The secretary of ~~social and rehabilitation~~ *for aging and disability* services is authorized to enter into an agreement with the secretary of corrections concerning the management and utilization of buildings and land currently not being used at state institutions under the authority of the secretary of ~~social and rehabilitation~~ *for aging and disability* services for the placement of persons in the custody of the secretary of corrections. The secretary of corrections shall provide supervision and security for persons placed under any such agreement.

Sec. 9. K.S.A. 2014 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 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 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 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 den-

tist; 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 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, K.S.A. 2014 Supp. 39-973 et seq., and amendments thereto, who 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.

(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(h)~~, 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 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, *or centers approved by the centers for medicare and medicaid services as a program for all-inclusive care for the elderly (PACE) under 42 code of federal regulations, chapter IV, part 460 et seq., and amendments thereto, which provides services only to PACE participants.*

(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. 10. K.S.A. 75-5308d and 76-12a24 and K.S.A. 2014 Supp. 8-2,144, 8-1025, 39-923, 59-29a24, 65-6233, 75-53,105 and 75-6524 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 14, 2015.

Published in the *Kansas Register* May 21, 2015.

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## CHAPTER 57

### SENATE BILL No. 154

AN ACT concerning employment security law; relating to determination of benefits; employer classification rates; administration by secretary of labor; employment security personnel; amending K.S.A. 2014 Supp. 44-704, 44-706, 44-709, 44-710a, 44-714 and 44-757 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 44-704 is hereby amended to read as follows: 44-704. (a) *Payment of benefits.* All benefits provided herein shall be payable from the fund. All benefits shall be paid through the secretary of labor, in accordance with such rules and regulations as the secretary may adopt. Benefits based on service in employment defined in ~~subsections (i)(3)(E) and (i)(3)(F) of K.S.A. 44-703(i)(3)(E) and (i)(3)(F),~~ and amendments thereto, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act except as provided in ~~subsection (e) of K.S.A. 44-705(e) and subsection (e)(2) of K.S.A. 44-711(e)(2),~~ and amendments thereto.

(b) *Determined weekly benefit amount.* An individual's determined weekly benefit amount shall be an amount equal to 4.25% of the individual's total wages for insured work paid during that calendar quarter of

the individual's base period in which such total wages were highest, subject to the following limitations:

(1) If an individual's determined weekly benefit amount is less than the minimum weekly benefit amount, it shall be raised to such minimum weekly benefit amount;

(2) if the individual's determined weekly benefit amount is more than the maximum weekly benefit amount, it shall be reduced to the maximum weekly benefit amount; and

(3) if the individual's determined weekly benefit amount is not a multiple of \$1, it shall be reduced to the next lower multiple of \$1.

(c) *Maximum weekly benefit amount.* (1) *For initial claims effective prior to July 1, 2015, the maximum weekly benefit amount shall be determined as follows:* On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing 60% of the average weekly wages paid to employees in insured work during the previous calendar year and shall prior to that date announce the maximum weekly benefit amount so determined, by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of midmonth employment during such calendar year multiplied by 52. The maximum weekly benefit amount so determined and announced for the twelve-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent twelve-month period. If the computed maximum weekly benefit amount is not a multiple of \$1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of \$1.

~~(d) *Minimum weekly benefit amount.* The minimum weekly benefit amount payable to any individual shall be 25% of the maximum weekly benefit calculated in accordance with subsection (c) and shall be announced by the secretary in conjunction with the published announcement of the maximum weekly benefit, also as provided in subsection (c). The minimum weekly benefit amount so determined and announced for the twelve-month period beginning July 1 of each year shall apply only to those claims which establish a benefit year filed within that twelve-month period and shall apply through the benefit year of such claims notwithstanding a change in such amount in a subsequent twelve-month period. If the minimum weekly benefit amount is not a multiple of \$1 it shall be reduced to the next lower multiple of \$1.~~

(2) *For initial claims effective on or after July 1, 2015, the maximum weekly benefit amount shall be determined as follows:* On July 1 of each year, the secretary shall determine the maximum weekly benefit amount

by computing 55% of the average weekly wages paid to employees in insured work during the previous calendar year, but not to be less than \$474, and shall, prior to that date, announce the maximum weekly benefit amount so determined by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of mid-month employment during such calendar year multiplied by 52. The maximum weekly benefit amount so determined and announced for the 12-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent 12-month period. If the computed maximum weekly benefit amount is not a multiple of \$1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of \$1.

(d) *Minimum weekly benefit amount.* The minimum weekly benefit amount payable to any individual shall be 25% of the maximum weekly benefit amount effective as of the beginning of the individual's benefit year. If the minimum weekly benefit amount is not a multiple of \$1 it shall be reduced to the next lower multiple of \$1. The minimum weekly benefit amount shall apply through the benefit year, notwithstanding a change in the minimum weekly benefit amount.

(e) All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a subsequent change in the maximum weekly benefit amount.

~~(e)~~(f) *Weekly benefit payable.* Each eligible individual who is unemployed with respect to any week, except as to final payment, shall be paid with respect to such week a benefit in an amount equal to such individual's determined weekly benefit amount, less that part of the wage, if any, payable to such individual with respect to such week which is in excess of the amount which is equal to 25% of such individual's determined weekly benefit amount and if the resulting amount is not a multiple of \$1, it shall be reduced to the next lower multiple of \$1.

(1) For the purposes of this section, remuneration received under the following circumstances shall be construed as wages:

(A) Vacation or holiday pay that was attributable to a week that the individual claimed benefits; and

(B) severance pay, if paid as scheduled, and all other employment benefits within the employer's control, as defined in subsection ~~(e)~~ (f)(3), if continued as though the severance had not occurred, except as set out in subsection ~~(e)~~ (f)(2)(C).

(2) For the purposes of this section, remuneration received under the following circumstances shall not be construed as wages:

(A) Remuneration received for services performed on a public assistance work project;

(B) severance pay, in lieu of notice, under the provisions of public law 100-379, the federal worker adjustment and retraining notification act, (29 U.S.C.A. §§ 2101 through 2109);

(C) all other severance pay, separation pay, bonuses, wages in lieu of notice or remuneration of a similar nature that is payable after the severance of the employment relationship, except as set out in subsection ~~(e)~~ (f)(1)(B); and

(D) moneys received as federal social security payments.

(3) For the purposes of this subsection ~~(e)~~ (f), “employment benefits within the employer’s control” means benefits offered by the employer to employees which are employee benefit plans as defined by section 3 of the federal employee retirement income security act of 1974, as amended, (29 U.S.C. § 1002) and which the employer has the option to continue to provide to the employee after the last day that the employee worked for that employer.

~~(f)~~(g) *Duration of benefits.* Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of 26 times such individual’s weekly benefit amount, or  $\frac{1}{3}$  of such individual’s wages for insured work paid during such individual’s base period. Such total amount of benefits, if not a multiple of \$1, shall be reduced to the next lower multiple of \$1.

~~(g)~~(h) For the purposes of this section, wages shall be counted as “wages for insured work” for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has satisfied the conditions of ~~subsection (h) of K.S.A. 44-703(h)~~, and amendments thereto, with respect to becoming an employer.

~~(h)~~(i) Notwithstanding any other provisions of this section to the contrary, any benefit otherwise payable for any week shall be reduced by the amount of any separation, termination, severance or other similar payment paid to a claimant at the time of or after the claimant’s separation from employment during the benefit year.

(1) If any payment pursuant to this subsection is paid with respect to a month, then the amount deemed to be received with respect to any week during such month shall be computed by multiplying such monthly amount by 12 and dividing the product by 52. If there is no designation of the period with respect to which payments to an individual are made under this section, then an amount equal to such individual’s normal weekly wage shall be attributed to and deemed paid with respect to the first and each succeeding week following the individual’s separation from

the employment of the employer making the payment until such amount so paid is exhausted.

(2) If benefits for any week, when reduced as provided in this subsection, result in an amount not a multiple of one dollar, such benefits shall be rounded to the next lower multiple of one dollar.

(i)-(j) For weeks commencing on and after January 1, 2014, if at the beginning of the benefit year, the three month seasonally adjusted average unemployment rate for the state of Kansas is: (1) Less than 4.5%, a claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at least 4.5% but less than 6%, a claimant shall be eligible for a maximum of 20 weeks of benefits; or (3) at least 6%, a claimant shall be eligible for a maximum of 26 weeks of benefits.

Sec. 2. K.S.A. 2014 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%~~ 2.7% 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)~~(b) (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)~~(a) 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)~~(b) 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)~~(a) 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. *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.*

(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.~~ (i) *For rate year 2015 and prior rate years, negative account balance employers, as defined in subsection (d), shall pay contributions at the rate of 5.4% for each calendar year.*

(ii) *For rate year 2016 and rate years thereafter, negative account balance employers, as defined in subsection (d), shall pay contributions at the rate referenced in section (a)(4)(D)(ii).*

(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(a)(2), and amendments thereto,~~ will be issued the maximum rate indicated in ~~subsection (a)(3)(C)~~ (a)(4)(D)(ii) 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) *For rate year 2015 and prior rate years,* 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 .....	.04
3	3.92 but less than 5.88 .....	.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
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) For rate year 2015 and prior rate years, 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(a)(2)~~, 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~~ three years.

(i) Such reduced rate of contributions shall be the new employer rate described in subsection (a)(1)(B)(i)(~~e~~)(a), or a rate based on the em-

ployer’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.

(4) *Planned yield.* (A) *For rate year 2015 and prior rate years,* 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(a), 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.

(B) *For the rate year 2016 and rate years thereafter, the contribution schedule in effect shall be determined by the fund control table and rate schedule table of subsection (a)(4)(D).*

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
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  
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  
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)~~(C) *Adjustment to taxable wages.* For rate year 2015 and prior rate years, the planned yield as a percent of total wages, as determined in this subsection ~~(a)(3)(4)~~, 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)~~(D) *Effective rates.* (i) For rate year 2016 and ensuing rate years, employer contribution rates to be effective for the ensuing calendar year shall be determined by the fund control table contained in this section. The average high cost multiple of the trust fund as of the computation date shall determine the contribution schedule in effect for the next rate year. For purposes of subsection ~~(a)(4)(D)(i)~~ and (v), the average high cost multiple is the reserve fund ratio, as defined by subsection ~~(a)(4)(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.

<i>Fund Control Table</i>		
<i>Lower AHCM Threshold</i>	<i>Upper AHCM Threshold</i>	<i>Solvency Adjustment to Standard Rate</i>
-1000.00000	0.19999	1.60%
0.20000	0.44999	1.40%
0.45000	0.59999	1.20%
0.60000	0.74999	1.00%
0.75000	1.14999	0.00%
1.15000	1000.0000	-0.50%

(ii) For rate year 2016 and ensuing rate years, eligible employers shall be classified according to the Standard Rate Schedule in this section, subject to any adjustment pursuant to the effective rate schedule for that rate year.

## STANDARD RATE SCHEDULE

<i>Rate Group</i>	<i>Lower Reserve Ratio Limit</i>	<i>Upper Reserve Ratio Limit</i>	<i>Standard Rate</i>
1	18.590	1,000,000.000	0.20%
2	17.875	18.589	0.40%
3	17.160	17.874	0.60%
4	16.445	17.159	0.80%
5	15.730	16.444	1.00%
6	15.015	15.729	1.20%
7	14.300	15.014	1.40%
8	13.585	14.299	1.60%
9	12.870	13.584	1.80%
10	12.155	12.869	2.00%
11	11.440	12.154	2.20%
12	10.725	11.439	2.40%
13	10.010	10.724	2.60%
14	9.295	10.009	2.80%
15	8.580	9.294	3.00%
16	7.865	8.579	3.20%
17	7.150	7.864	3.40%
18	6.435	7.149	3.60%
19	5.720	6.434	3.80%
20	5.005	5.719	4.00%
21	4.290	5.004	4.20%
22	3.575	4.289	4.40%
23	2.860	3.574	4.60%
24	2.145	2.859	4.80%
25	1.430	2.144	5.00%
26	0.715	1.429	5.20%
27	0.000	0.714	5.40%
N1	-0.714	-0.001	5.60%
N2	-1.429	-0.715	5.80%
N3	-2.144	-1.430	6.00%
N4	-2.859	-2.145	6.20%
N5	-3.574	-2.860	6.40%
N6	-4.289	-3.575	6.60%
N7	-5.004	-4.290	6.80%
N8	-5.719	-5.005	7.00%
N9	-6.434	-5.720	7.20%
N10	-7.149	-6.435	7.40%
N11	-1,000,000.000	-7.150	7.60%

(iii) For all rate years prior to 2016, 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)(4), 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)-(iv)~~ For rate year 2007 and subsequent rate years 2007 through 2015, 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)(4)(D)(i)~~ through (iv) are in effect. This discount shall not be available for a rate year if the average high cost multiple, *as defined in subsection (a)(4)(D)(i)*, 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(~~g~~), and amendments thereto, becomes an employer pursuant to ~~subsection (h)(4)~~ of K.S.A. 44-703(~~h~~)(4), 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(~~dd~~), 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(~~h~~)(4) or (~~dd~~), 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(~~g~~), 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(d) and (e)~~, and amend-

ments 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(h)(8)~~, 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. 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(a)~~, 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 subsection (a)(2)(E), 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 subsection (a)(2)(E), 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 subsection (a)(2)(E). Notwithstanding any provision of this section, all moneys received and credited to this fund pursuant to subsection (a)(2)(E), shall remain part of the employment security interest assessment fund and shall be used only in accordance with the conditions specified in subsection (a)(2)(E).

(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)(4)(B) and to assist in preparing legislation to accomplish any such adjustment.

Sec. 3. K.S.A. 2014 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(k), 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 pro-

vided 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 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;

(8) (A) a contributing employer must be eligible for a rate computation under ~~subsection (a)(2)~~ of K.S.A. 44-710a(a)(2), and amendments thereto, and is not a negative account employer as defined by ~~subsection (d)~~ of K.S.A. 44-710a(d), and amendments thereto; (B) a rated governmental employer must be eligible for a rate computation under ~~subsection (g)~~ of K.S.A. 44-710d(g), 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.

(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 subsection (k)(3) for a waiting 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) 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(j)(g), and amendments thereto.

(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.

(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.

(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.

(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.

(r) This section shall be construed as part of the employment security law.

Sec. 4. K.S.A. 2014 Supp. 44-706 is hereby amended to read as follows: 44-706. *The secretary shall examine whether an individual has separated from employment for each week claimed. The secretary shall apply the provisions of this section to the individual's most recent employment prior to the week claimed.* 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 con-

sidered 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 location 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, as defined for purposes of the federal trade act of 1974, 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. 2014 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 misconduct 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. 2014 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(v), 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(v), 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(v), 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(v)~~, 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(v)~~, 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 rev-

enue 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(s)~~, 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(c)~~, 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 unem-

ployment 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 or 65-5117, and amendments thereto, was hired and then was subsequently convicted of a disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments thereto, and discharged pursuant to K.S.A. 39-970 or 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.

(v) *Notwithstanding the provisions of any subsection, an individual shall not be disqualified for such week of part-time employment in a substitute capacity for an educational institution if such individual's most recent employment prior to the individual's benefit year begin date was for a non-educational institution and such individual demonstrates application for work in such individual's customary occupation or for work for which the individual is reasonably fitted by training or experience.*

Sec. 5. K.S.A. 2014 Supp. 44-709 is hereby amended to read as follows: 44-709. (a) *Filing.* Claims for benefits shall be made in accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall post and maintain printed statements furnished by the secretary without cost to the employer in places readily accessible to individuals in the service of the employer.

(b) *Determination.* (1) Except as otherwise provided in this paragraph, a representative designated by the secretary, and hereinafter referred to as an examiner, shall promptly examine the claim and, on the

basis of the facts found by the examiner, shall determine whether or not the claim is valid. If the examiner determines that the claim is valid, the examiner shall determine the first day of the benefit year, the weekly benefit amount and the total amount of benefits payable with respect to the benefit year. If the claim is determined to be valid, the examiner shall send a notice to the last employing unit who shall respond within 10 days by providing the examiner all requested information including all information required for a decision under K.S.A. 44-706, and amendments thereto. The information may be submitted by the employing unit in person at an employment office of the secretary or by mail, by telefacsimile machine or by electronic mail. If the required information is not submitted or postmarked within a response time limit of 10 days after the examiner's notice was sent, the employing unit shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the employment security board of review or any court, except that the employing unit's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. In any case in which the payment or denial of benefits will be determined by the provisions of ~~subsection (d) of K.S.A. 44-706(d)~~, and amendments thereto, the examiner shall promptly transmit the claim to a special examiner designated by the secretary to make a determination on the claim after the investigation as the special examiner deems necessary. The parties shall be promptly notified of the special examiner's decision and any party aggrieved by the decision may appeal to the referee as provided in subsection (c). The claimant and the claimant's most recent employing unit shall be promptly notified of the examiner's or special examiner's decision.

(2) The examiner may for good cause reconsider the examiner's decision and shall promptly notify the claimant and the most recent employing unit of the claimant, that the decision of the examiner is to be reconsidered, except that no reconsideration shall be made after the termination of the benefit year.

(3) Notwithstanding the provisions of any other statute, a decision of an examiner or special examiner shall be final unless the claimant or the most recent employing unit of the claimant files an appeal from the decision as provided in subsection (c), except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect. The appeal must be filed within 16 calendar days after the mailing of notice to the last known addresses of the claimant and employing unit or, if notice is not by mail, within 16 calendar days after the delivery of the notice to the parties.

(c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the examiner or special examiner. The

parties shall be duly notified of the referee's decision, together with the reasons for the decision. The decision shall be final, notwithstanding the provisions of any other statute, unless a further appeal to the employment security board of review is filed within 16 calendar days after the mailing of the decision to the parties' last known addresses or, if notice is not by mail, within 16 calendar days after the delivery of the decision, except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect.

(d) *Referees.* The secretary shall appoint, in accordance with ~~subsection (c) of K.S.A. 44-714(c)~~, and amendments thereto, one or more referees to hear and decide disputed claims.

(e) *Time, computation and extension.* In computing the period of time for an employing unit response or for appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

(f) *Board of review.* (1) There is hereby created an employment security board of review, hereinafter referred to as the board, consisting of three members. Each member of the board shall be appointed for a term of four years as provided in this subsection. Not more than two members of the board shall belong to the same political party.

(2) When a vacancy on the employment security board of review occurs, the workers compensation and employment security boards nominating committee established under K.S.A. 44-551, and amendments thereto, shall convene and submit a nominee to the governor for appointment to each vacancy on the employment security board of review, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. The governor shall either: (A) Accept and submit to the senate for confirmation the person nominated by the nominating committee; or (B) reject the nomination and request the nominating committee to nominate another person for that position. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the employment security board of review, whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a member until confirmed by the senate.

(3) No member of the employment security board of review shall serve more than two consecutive terms.

(4) Each member of the employment security board shall serve until a successor has been appointed and confirmed. Any vacancy in the membership of the board occurring prior to expiration of a term shall be filled

by appointment for the unexpired term in the same manner as provided for original appointment of the member.

(5) Each member of the employment security board of review shall be entitled to receive as compensation for the member's services at the rate of \$15,000 per year, together with the member's travel and other necessary expenses actually incurred in the performance of the member's official duties in accordance with rules and regulations adopted by the secretary. Members' compensation and expenses shall be paid from the employment security administration fund.

(6) The employment security board of review shall organize annually by the election of a chairperson from among its members. The chairperson shall serve in that capacity for a term of one year and until a successor is elected. The board shall meet on the first Monday of each month or on the call of the chairperson or any two members of the board at the place designated. The secretary of labor shall appoint an executive secretary of the board and the executive secretary shall attend the meetings of the board.

(7) The employment security board of review, on its own motion, may affirm, modify or set aside any decision of a referee on the basis of the evidence previously submitted in the case; may direct the taking of additional evidence; or may permit any of the parties to initiate further appeal before it. The board shall permit such further appeal by any of the parties interested in a decision of a referee which overrules or modifies the decision of an examiner. The board may remove to itself the proceedings on any claim pending before a referee. Any proceedings so removed to the board shall be heard in accordance with the requirements of subsection (c). The board shall promptly notify the interested parties of its findings and decision.

(8) Two members of the employment security board of review shall constitute a quorum and no action of the board shall be valid unless it has the concurrence of at least two members. A vacancy on the board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(g) *Procedure.* The manner in which disputed claims are presented, the reports on claims required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with rules of procedure prescribed by the employment security board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings and decisions in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed. In the performance of its official duties, the board shall have access to all of the records which

pertain to the disputed claim and are in the custody of the secretary of labor and shall receive the assistance of the secretary upon request.

(h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall be allowed fees and necessary travel expenses at rates fixed by the board. Such fees and expenses shall be deemed a part of the expense of administering this act.

(i) ~~*Court review*~~ *Review of board action.* Any action of the employment security board of review ~~is subject to review~~ *may not be reconsidered after the mailing of the decision. An action of the board shall become final unless a petition for review in accordance with the Kansas judicial review act is filed within 16 calendar days after the date of the mailing of the decision. If an appeal has not been filed within 16 calendar days of the date of the mailing of the decision, the decision becomes final.* No bond shall be required for commencing an action for such review. ~~In the absence of an action for such review, the action of such board shall become final 16 calendar days after the date of the mailing of the decision.~~ In addition to those persons having standing pursuant to K.S.A. 77-611, and amendments thereto, the examiner shall have standing to obtain judicial review of an action of such board. The review proceeding, and the questions of law certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the workers compensation act.

(j) Any finding of fact or law, judgment, determination, conclusion or final order made by the employment security board of review or any examiner, special examiner, referee or other person with authority to make findings of fact or law pursuant to the employment security law is not admissible or binding in any separate or subsequent action or proceeding, between a person and a present or previous employer brought before an arbitrator, court or judge of the state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

(k) In any proceeding or hearing conducted under this section, a party to the proceeding or hearing may appear before a referee or the employment security board of review either personally or by means of a designated representative to present evidence and to state the position of the party. Hearings may be conducted in person, by telephone or other means of electronic communication. The hearing shall be conducted by telephone or other means of electronic communication if none of the parties requests an in-person hearing. If only one party requests an in-person hearing, the referee shall have the discretion of requiring all parties to appear in person or allow the party not requesting an in-person hearing to appear by telephone or other means of electronic communication. The notice of hearing shall include notice to the parties of their right to request an in-person hearing and instructions on how to make the request.

Sec. 6. K.S.A. 2014 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 or at an appeal hearing under 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(c), 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. 7. K.S.A. 2014 Supp. 44-704, 44-706, 44-709, 44-710a, 44-714 and 44-757 are hereby repealed.

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

Approved May 18, 2015.

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## CHAPTER 58

HOUSE BILL No. 2061

AN ACT concerning agriculture; relating to the Kansas department of agriculture division of conservation; state conservation commission; powers and duties thereof; amending K.S.A. 2014 Supp. 2-1904 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 2-1904 is hereby amended to read as follows: 2-1904. (a) There is hereby established, to serve as a conservation program policy board of the state and to perform the functions conferred upon it in this act, the state conservation commission. The state conservation commission shall succeed to all the powers, duties and property of

the state soil conservation committee. The commission shall consist of nine members as follows:

(1) The director of the cooperative extension service and the director of the state agricultural experiment station located at Manhattan, Kansas, or such persons' designees shall serve, ex officio, as members of the commission.

(2) The commission shall request the secretary of agriculture of United States of America to appoint one person and the secretary of the Kansas department of agriculture to appoint one person, each of whom shall be residents of the state of Kansas to serve as members of the commission. These members shall hold office for four years and until a successor is appointed and qualifies, with terms commencing on the second Monday in January beginning in 1973.

(3) Five members of the state commission shall be elected by the conservation district supervisors at a time and place to be designated by the state conservation commission. The method of electing such members to be conducted as follows: The state is to be divided into five separate areas. Area No. I to include the following counties: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan, Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis and Russell. Area No. II to include: Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee, Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell, Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and Kiowa. Area No. III to include: Jewell, Republic, Mitchell, Cloud, Lincoln, Ottawa, Ellsworth, Saline, Rice, McPherson, Reno, Harvey, Kingman, Sedgwick, Sumner, Harper, Barber, Pratt, Barton and Stafford. Area No. IV to include: Washington, Marshall, Nemaha, Brown, Doniphan, Clay, Riley, Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth, Wyandotte, Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson, Morris, Osage, Franklin and Miami. Area No. V to include: Marion, Chase, Lyon, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Greenwood, Butler, Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua, Montgomery, Labette and Cherokee. Areas II and IV will elect in even number years and Areas I, III and V shall elect in odd number years for two year terms. The elected commission members from Areas I, III and V shall take office on January 1, of the even number years. The remaining two elected members of the state commission from Areas II and IV shall take office on January 1, of the odd number years. The method of election is to be by area caucus of the district supervisors of each of the five separate areas of Kansas. The commission shall give each district notice of the time and place of such annual election meeting by letter if a member is to be elected to the commission from that area that year. The selection of a successor to fill an unexpired term shall be by appointment by the commission. The successor who is appointed to fill the unexpired term shall be a resident of the same area as that of the predecessor.

(b) The commission shall keep a record of its official actions, shall adopt a seal which seal shall be judicially noticed, and may perform such acts, hold such public hearings and adopt rules and regulations necessary for the execution of its functions under this act.

(c) In addition to the powers and duties conferred in this section, the state conservation commission shall have the powers and duties not delegated to the Kansas department of agriculture division of conservation pursuant to K.S.A. 2014 Supp. 74-5,126, and amendments thereto.

(d) The commission shall designate its chairperson and, from time to time, may change such designation. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Members of the state conservation commission attending meetings of such commission or attending a subcommittee meeting thereof authorized by such commission shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The commission shall provide for keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.

(e) The state conservation commission together with the Kansas department of agriculture division of conservation shall make conservation program policy decisions, including modification of current conservation programs, creation of new conservation programs and budget recommendations.

(f) The Kansas department of agriculture division of conservation in consultation with the state conservation commission shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs;

(2) to keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder and to facilitate an interchange of advice and experience between such districts and cooperation between them;

(3) to coordinate the programs of the several conservation districts organized hereunder;

(4) to secure the cooperation and assistance of the United States and any of its agencies and of agencies of this state, in the work of such districts and to contract with or to accept donations, grants, gifts and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of this act;

(5) to disseminate information throughout the state concerning the activities and programs of the conservation districts organized hereunder

and to encourage the formation of such districts in areas where their organization is desirable;

(6) to cooperate with and give assistance to watershed districts and other special purpose districts in the state of Kansas for the purpose of cooperating with the United States through the secretary of agriculture in the furtherance of conservation pursuant to the provisions of the watershed protection and flood prevention act, as amended;

(7) to cooperate in and carry out, in accordance with state policies, activities and programs to conserve and develop the water resources of the state and maintain and improve the quality of such water resources;

(8) to enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts; ~~and~~

(9) to facilitate arrangements under which conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of natural resources; *and*

(10) *to take such actions as are necessary to restore, establish, enhance and protect natural resources with conservation easements for the purpose of compensatory mitigation required under section 404 of the federal clean water act, including:*

(A) *Accepting, purchasing or otherwise acquiring conservation easements, as defined in K.S.A. 58-3810, and amendments thereto, on behalf of watershed districts for the purpose of protecting compensatory mitigation sites;*

(B) *contracting with engineering consultants, surveyors and construction contractors for the purpose of restoration, establishment and enhancement of natural resources; and*

(C) *establishing fees for the acquisition and administration of conservation easements held on behalf of watershed districts, accepting such fees from state and local government agencies, and assuming responsibility to ensure the terms of the conservation easement are met, as approved by the department, for the length of term of the easement for which fees have been accepted.*

(g) *There is hereby established in the state treasury the compensatory mitigation fund, which shall be administered by the department of agriculture. All expenditures from the compensatory mitigation fund shall be for conservation. All expenditures from the compensatory mitigation 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 the designee of the secretary. The secretary of agriculture shall remit all moneys received by or for the secretary under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon each such remittance,*

*the state treasurer shall deposit the entire amount in the state treasury to the credit of the compensatory mitigation fund.*

*(h) All costs associated with compensatory mitigation, including, but not limited to, the costs of any litigation or civil fines or penalties, shall be paid by the watershed district for which the Kansas department of agriculture division of conservation holds the conservation easement.*

*(i) (1) Except as provided in subsection (i)(2), the Kansas department of agriculture shall not expend moneys appropriated from the state general fund or from any special revenue fund or funds for the purpose of accepting, purchasing or otherwise acquiring conservation easements on behalf of watershed districts.*

*(2) The Kansas department of agriculture may expend moneys in the compensatory mitigation fund established by this section for the purpose of accepting, purchasing or otherwise acquiring conservation easements on behalf of watershed districts and for the administration of such conservation easements.*

*(j) The Kansas department of agriculture division of conservation shall not accept, purchase or otherwise acquire any conservation easement other than for the purposes of this section.*

Sec. 2. K.S.A. 2014 Supp. 2-1904 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 18, 2015.

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CHAPTER 59  
SENATE BILL No. 14

AN ACT concerning the disposition of district court fines, penalties and forfeitures; relating to the criminal justice information system line fund; amending K.S.A. 2014 Supp. 74-7336 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 74-7336 is hereby amended to read as follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit:

- (1) 10.94% to the crime victims compensation fund;
- (2) 2.24% to the crime victims assistance fund;
- (3) 2.75% to the community alcoholism and intoxication programs fund;
- (4) 7.65% to the department of corrections alcohol and drug abuse treatment fund;

- (5) 0.16% to the boating fee fund;
  - (6) 0.11% to the children's advocacy center fund;
  - (7) 2.28% to the EMS revolving fund;
  - (8) 2.28% to the trauma fund;
  - (9) 2.28% to the traffic records enhancement fund;
  - (10) ~~2.91%~~ 4.4% to the criminal justice information system line fund;
- and
- (11) the remainder of the remittances to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.

Sec. 2. K.S.A. 2014 Supp. 74-7336 is hereby repealed.

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

Approved May 19, 2015.

Published in the *Kansas Register* May 28, 2015.

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## CHAPTER 60

### SENATE BILL No. 52

AN ACT concerning water; relating to the diversion of water; chief engineer; multi-year flex accounts; local enhanced management areas; public water supply storage; amending K.S.A. 82a-706b and K.S.A. 2014 Supp. 82a-708c, 82a-736, 82a-1041, 82a-1604, 82a-1605 and 82a-1606 and repealing the existing sections.

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

Section 1. K.S.A. 82a-706b is hereby amended to read as follows: 82a-706b. (a) It shall be unlawful for any person to prevent, by diversion or otherwise, any waters of this state from moving to a person having a prior right to use the same, or for any person without an agreement with the state of Kansas to divert or take any water that has been released from storage under authority of *water reservation rights held by* the state of Kansas ~~or that has been released from storage pursuant to an agreement between the state and federal government~~. Upon making a determination of an unlawful diversion, the chief engineer or ~~his or her~~ *the chief engineer's* authorized agents, shall, *as may be necessary to secure water to the person having the prior right to its use, or to secure water for the purpose for which it was released from storage under authority of the state of Kansas or water reservation rights held by the state of Kansas:*

- (1) Direct that the headgates, valves, or other controlling works of

any ditch, canal, conduit, pipe, well; or structure be opened, closed, adjusted; or regulated; or

(2) *within the rattlesnake creek subbasin located in hydrologic unit code 11030009, allow augmentation for the replacement in time, location and quantity of the unlawful diversion, if such replacement is available and offered voluntarily as may be necessary to secure water to the person having the prior right to its use, or to secure water for the purpose for which it was released from storage under authority of the state of Kansas or pursuant to an agreement between the state and federal government.*

(b) The chief engineer, or ~~his or her~~ *the chief engineer's* authorized agents, shall deliver a copy of such a directive to the persons involved either personally or by mail or by attaching a copy thereof to such headgates, valves; or other controlling works to which it applies and such directive shall be legal notice to all persons involved in the diversion and distribution of the water of the ditch, canal, conduit, pipe, well; or structure. For the purpose of making investigations of diversions and delivering directives as provided herein and determining compliance therewith, the chief engineer or ~~his or her~~ *the chief engineer's* authorized agents shall have the right of access and entry upon private property.

Sec. 2. K.S.A. 2014 Supp. 82a-708c is hereby amended to read as follows: 82a-708c. (a) A term permit is a permit to appropriate water for a limited specified period of time in excess of six months. At the end of the specified time, or any authorized extension approved by the chief engineer, the permit shall be automatically dismissed, and any priority it may have had shall be forfeited. No water right shall be perfected pursuant to a term permit.

(b) Each application for a term permit to appropriate water shall be made on a form prescribed by the chief engineer and shall be accompanied by an application fee fixed by this section for the appropriate category of acre feet in accordance with the following:

Acre Feet	Fee
0 to 100 .....	\$200
101 to 320 .....	\$300
More than 320 .....	\$300 + \$20
	for each additional 100 acre feet or any part thereof

On and after July 1, 2018, the application fee shall be set forth in the schedule below:

Acre Feet	Fee
0 to 100 .....	\$100
101 to 320 .....	\$100

More than 320 ..... \$150 + \$10  
 for each additional 100  
 acre feet or any part thereof

The chief engineer shall render a decision on such term permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(c) Each application for a term permit to appropriate water for storage, except applications for permits for domestic use, shall be accompanied by an application fee fixed by this section for the appropriate category of storage-acre feet in accordance with the following:

Storage-Acre Feet	Fee
0 to 250 .....	\$200
More than 250 .....	\$200 + \$20
	for each additional 250 acre feet or any part thereof

On and after July 1, 2018, the application fee shall be set forth in the schedule below:

Storage-Acre Feet	Fee
0 to 250 .....	\$100
More than 250 .....	\$100 + \$10
	for each additional 250 acre feet or any part thereof

The chief engineer shall render a decision on such term permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(d) Each application for a term permit pursuant to K.S.A. 2014 Supp. 82a-736, and amendments thereto, shall be accompanied by an application fee established by rules and regulations adopted by the chief engineer in an amount not to exceed \$400 for the five-year period covered by the permit.

(e) Notwithstanding the provisions of K.S.A. 82a-714, and amendments thereto, the applicant is not required to file a notice of completion of diversion works nor pay a field inspection fee. The chief engineer shall not conduct a field inspection of the diversion works required by statute for purposes of certification nor issue a certificate of appropriation for a term permit.

(f) A request to extend the term of a term permit in accordance with the rules and regulations adopted by the chief engineer shall be accompanied by the same filing fee applicable to other requests for extensions of time as set forth in K.S.A. 82a-714, and amendments thereto.

(g) An application to change the place of use, point of diversion, use made of water, or any combination thereof, pursuant to K.S.A. 82a-708b, and amendments thereto, shall not be approved for a term permit, *except a change in place of use for a term permit approved pursuant to K.S.A. 82a-736, and amendments thereto, for irrigation use may be approved by the chief engineer for an increase of up to 10 acres or 10% of the authorized place of use whichever is less.*

(h) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

Sec. 3. K.S.A. 2014 Supp. 82a-736 is hereby amended to read as follows: 82a-736. (a) It is hereby recognized that an opportunity exists to improve water management by enabling multi-year flexibility in the use of water authorized to be diverted under a groundwater water right, provided, that such flexibility neither impairs existing water rights, nor increases the total amount of water diverted, so that such flexibility has no long-term negative effect on the source of supply. It is therefore declared necessary and advisable to permit the establishment of multi-year flex accounts for groundwater water rights, together with commensurate protections for existing water rights and their source of supply.

(b) As used in this section:

(1) “Base water right” means a water right under which an applicant applies to the chief engineer to establish a multi-year flex account and where all of the following conditions exist:

(A) The authorized source of supply is groundwater; and

(B) the water right has not been the subject of a change approval to implement the provisions of K.A.R. 5-5-9(a)(2), K.A.R. 5-5-11(b)(2) or K.A.R. 5-5-11(b)(3), in effect upon the effective date of this act.

(2) “Multi-year flex account” means a term permit which suspends a base water right during its term, except when the term permit may be no longer exercised because of an order of the chief engineer, and is subject to the terms and conditions as provided in subsection (e).

(3) “Base average usage” means: (A) The average amount of water actually diverted for a beneficial use under the base water right during calendar years 2000 through 2009, excluding any amount diverted in any such year that exceeded the maximum annual quantity of water authorized by the base water right; or (B) if the holder of the base water right shows to the satisfaction of the chief engineer that water conservation reduced water use under the base water right during calendar years 2000 through 2009, then the average amount of water actually diverted for a beneficial use under the base water right during the five calendar years

immediately before the calendar year when water conservation began, excluding any amount used in any such year that exceeded the amount authorized by the base water right.

(4) “Chief engineer” means the chief engineer of the division of water resources of the department of agriculture.

(5) “Flex account acreage” means the maximum number of acres lawfully irrigated during a calendar year when no term, condition or limitation of the base water right has been violated and either of the following conditions is met:

(A) The calendar year is 2000 through 2009; or

(B) if water conservation reduced water use under the base water right during calendar years 2000 through 2009, the calendar year is a year within the five calendar years immediately prior to the calendar year when water conservation began.

(6) “Net irrigation requirement” means the net irrigation requirement for 50% chance rainfall of the county that corresponds with the location of the authorized place of use of the base water right as provided in K.A.R. 5-5-12, on the effective date of this act.

(c) (1) Any holder of a base water right that has not been deposited or placed in a safe deposit account in a chartered water bank may establish a multi-year flex account where the holder may deposit, in advance, the authorized quantity of water from such water right for any five consecutive calendar years, subject to all of the following:

(A) The water right must be vested or shall have been issued a certificate of appropriation;

(B) the withdrawal of water pursuant to the water right shall be properly and adequately metered;

(C) the water right is not deemed abandoned and is in compliance with the terms and conditions of its certificate of appropriation, all applicable provisions of law and orders of the chief engineer;

(D) the amount of water deposited in the multi-year flex account shall not exceed the greatest of the following:

(i) 500% of the base average usage;

(ii) 500% of the product of the annual net irrigation requirement multiplied by the flex account acreage, multiplied by 110%, but not greater than five times the maximum annual quantity authorized by the base water right; ~~or~~

(iii) if the authorized place of use is located wholly within the boundaries of a groundwater management district, an amount that shall not increase the long-term average use of the groundwater right as specified by rule or regulation promulgated pursuant to ~~subsection (c) of K.S.A. 82a-1028(o), and~~ amendments thereto; ~~and~~ or

(iv) pursuant to subparagraph (E), the amount computed in (i), (ii) or (iii) plus any deposited water remaining in a multi-year flex account up to 100% of the base average usage;

(E) *any deposited water remaining in a multi-year flex account up to 100% of the base average usage may be added to the deposit amount calculated in subparagraph (D) if the base water right is enrolled in another multi-year flex account during the calendar year in which the existing multi-year flex account expires. The total amount of water deposited in any multi-year flex account shall not exceed 500% of the authorized quantity of the base water right; and*

(F) notwithstanding any other provisions of this subsection, except when the base water right is suspended due to the issuance of a two-year term permit in a designated drought emergency area for 2011 and 2012, the quantity of water deposited into a multi-year flex account shall be reduced by the quantity of water used in excess of the maximum annual quantity of the base water right during 2011 if the application for a multi-year flex account is filed with the chief engineer on or before July 15, 2012.

(2) The provisions of K.A.R. 5-5-11 are limited to changes in annual authorized quantity and shall not apply to this subsection.

(d) The chief engineer shall implement a program providing for the issuance of term permits to holders of groundwater water rights who have established flex accounts in accordance with this section. Such term permits shall authorize the use of water in a flex account at any time during the five consecutive calendar years for which the application for the term permit authorizing a multi-year flex account is made, without annual limits on such use.

(e) Term permits provided for by this section shall be subject to the following:

(1) A separate term permit shall be required for each point of diversion authorized by the base water right.

(2) The quantity of water authorized for diversion shall be limited to the amount deposited pursuant to subsection (c)(1)(D).

(3) The rate of diversion for each point of diversion authorized under the term permit shall not exceed the rate of diversion for each point of diversion authorized under the base water right.

(4) The authorized place of use shall be the place of use or a subdivision of the place of use for the base water right.

(5) The point of diversion authorized by the term permit shall be specified by referencing one point of diversion authorized by the base water right at the time the multi-year flex account term permit application is filed with the chief engineer or at the time any approvals changing such referenced point of diversion of the base water right are approved during the multi-year flex account period. For a base water right with multiple points of diversion, each point of diversion authorized by a term permit shall receive a specific assignment of a maximum authorized quantity of water, assigned proportionately to the authorized annual quantities of the respective points of diversion under the base water right.

(6) The chief engineer may establish, by rules and regulations, criteria for such term permits.

(7) Except as explicitly provided for by this section, such term permits shall be subject to all provisions of the Kansas water appropriation act, and rules and regulations adopted under such act, and nothing in this section shall authorize impairment of any vested right or prior appropriation right by the exercise of such term permit.

(f) An application for a multi-year flex account shall be filed with the chief engineer on or before October 1 of the first year of the multi-year flex account term for which the application is being made.

(g) All costs of administration of this section shall be paid from fees for term permits provided for by this section. Any appropriation or transfer from any fund other than the water appropriation certification fund for the purpose of paying such costs shall be repaid to the fund from which such appropriation or transfer is made. At the time of repayment, the secretary of agriculture shall certify to the director of accounts and reports the amount to be repaid and the fund to be repaid. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified to the specified fund.

(h) The fee for a multi-year flex account term permit shall be the same as specified for other term permits in K.S.A. 82a-708c, and amendments thereto, except as follows:

(1) If the base water right is currently suspended due to the issuance of a two-year term permit in a designated drought emergency area for 2011 and 2012, then a holder of such term permit shall be subject to a \$200 application fee for a multi-year flex account term permit if the application is filed on or before July 15, 2012; or

(2) if water use under the authority of the base water right exceeded the maximum annual quantity authorized by the base water right during 2011 and the holder of the base water right files an application for approval of a multi-year flex account term permit on or before July 15, 2012, then the application fee shall be \$600.

(i) The chief engineer shall have full authority pursuant to K.S.A. 82a-706c, and amendments thereto, to require any additional measuring devices and any additional reporting of water use for term permits issued pursuant to this section. Failure to comply with any measuring or reporting requirement may result in a penalty, up to and including the revocation of the term permit and the suspension of the base water right for the duration of the term permit period.

(j) The chief engineer shall submit a written report on the implementation of this section to the house standing committee on agriculture and natural resources and the senate standing committee on natural resources on or before February 1 of each year.

(k) This section shall be part of and supplemental to the Kansas water appropriation act.

Sec. 4. K.S.A. 2014 Supp. 82a-1041 is hereby amended to read as follows: 82a-1041. (a) Whenever a groundwater management district recommends the approval of a local enhanced management plan within the district to address any of the conditions set forth in ~~subsections (a) through (d)~~ of K.S.A. 82a-1036(a) through (d), and amendments thereto, the chief engineer shall review the local enhanced management plan submitted by the groundwater management district. The chief engineer's review shall be limited to whether the plan:

- (1) Proposes clear geographic boundaries;
- (2) pertains to an area wholly within the groundwater management district;
- (3) proposes goals and corrective control provisions as provided in subsection (f) adequate to meet the stated goals;
- (4) *gives due consideration to water users who already have implemented reductions in water use resulting in voluntary conservation measures;*
- (5) includes a compliance monitoring and enforcement element; and
- ~~(5)~~(6) is consistent with state law.

If, based on such review, the chief engineer finds that the local enhanced management plan is acceptable for consideration, the chief engineer shall initiate, as soon as practicable thereafter, proceedings to designate a local enhanced management area.

(b) In any case where proceedings to designate a local enhanced management area are initiated, the chief engineer shall conduct an initial public hearing on the question of designating such an area as a local enhanced management area according to the local enhanced management plan. The initial public hearing shall resolve the following findings of fact:

- (1) Whether one or more of the circumstances specified in ~~subsection (a) through (d)~~ of K.S.A. 82a-1036(a) through (d), and amendments thereto, exist;
- (2) whether the public interest of K.S.A. 82a-1020, and amendments thereto, requires that one or more corrective control provisions be adopted; and
- (3) whether the geographic boundaries are reasonable.

The chief engineer shall conduct a subsequent hearing or hearings only if the initial public hearing is favorable on all three issues of fact and the expansion of geographic boundaries is not recommended. At least 30 days prior to the date set for any hearing, written notice of such hearing shall be given to every person holding a water right of record within the area in question and by one publication in any newspaper of general circulation within the area in question. The notice shall state the question and shall denote the time and place of the hearing. At every such hearing, documentary and oral evidence shall be taken and a complete record of the same shall be kept.

- (c) The subject matter of the hearing or hearings set forth in subsec-

tion (b) shall be limited to the local enhanced management plan that the chief engineer previously reviewed pursuant to subsection (a) and set for hearing.

(d) Within 120 days of the conclusion of the final public hearing set forth in subsections (b) and (c), the chief engineer shall issue an order of decision:

(1) Accepting the local enhanced management plan as sufficient to address any of the conditions set forth in ~~subsections (a) through (d) of~~ K.S.A. 82a-1036(a) *through (d)*, and amendments thereto;

(2) rejecting the local enhanced management plan as insufficient to address any of the conditions set forth in ~~subsections (a) through (d) of~~ K.S.A. 82a-1036(a) *through (d)*, and amendments thereto;

(3) returning the local enhanced management plan to the groundwater management district, giving reasons for the return and providing the district with the opportunity to resubmit a revised plan for public hearing within 90 days of the return of the deficient plan; or

(4) returning the local enhanced management plan to the groundwater management district and proposing modifications to the plan, based on testimony at the hearing or hearings, that will improve the administration of the plan, but will not impose reductions in groundwater withdrawals that exceed those contained in the plan. If the groundwater management district approves of the modifications proposed by the chief engineer, the district shall notify the chief engineer within 90 days of receipt of return of the plan. Upon receipt of the groundwater management district's approval of the modifications, the chief engineer shall accept the modified local management plan. If the groundwater management district does not approve of the modifications proposed by the chief engineer, the local management plan shall not be accepted.

(e) In any case where the chief engineer issues an order of decision accepting the local enhanced management plan pursuant to subsection (d), the chief engineer, within a reasonable time, shall issue an order of designation that designates the area in question as a local enhanced management area.

(f) The order of designation shall define the boundaries of the local enhanced management area and shall indicate the circumstances upon which the findings of the chief engineer are made. The order of designation may include any of the following corrective control provisions set forth in the local enhanced management plan:

(1) Closing the local enhanced management area to any further appropriation of groundwater. In which event, the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area;

(2) determining the permissible total withdrawal of groundwater in the local enhanced management area each day, month or year, and, insofar as may be reasonably done, the chief engineer shall apportion such

permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights;

(3) reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the local enhanced management area;

(4) requiring and specifying a system of rotation of groundwater use in the local enhanced management area; or

(5) any other provisions making such additional requirements as are necessary to protect the public interest.

The chief engineer is hereby authorized to delegate the enforcement of any corrective control provisions ordered for a local enhanced management area to the groundwater management district in which that area is located, upon written request by the district.

(g) The order of designation shall follow, insofar as may be reasonably done, the geographical boundaries recommended by the local enhanced management plan.

(h) Except as provided in subsection (f), the order of designation of a local enhanced management area shall be in full force and effect from the date of its entry in the records of the chief engineer's office unless and until its operation shall be stayed by an appeal from an order entered on review of the chief engineer's order pursuant to K.S.A. 2014 Supp. 82a-1901, and amendments thereto, and in accordance with the provisions of the Kansas judicial review act. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order and shall file a copy of the same with the register of deeds of any county within which any part of the local enhanced management area lies.

(i) If the holder of a groundwater right within the local enhanced management area applies for review of the order of designation pursuant to K.S.A. 2014 Supp. 82a-1901, and amendments thereto, the provisions of the order with respect to the inclusion of the holder's water right within the area may be stayed in accordance with the Kansas administrative procedure act.

(j) Unless otherwise specified in the proposed enhanced management plan and included in the order of designation, a public hearing to review the designation of a local enhanced management area shall be conducted by the chief engineer within seven years after the order of designation is final. A subsequent review of the designation shall occur within 10 years after the previous public review hearing or more frequently as determined by the chief engineer. Upon the request of a petition signed by at least 10% of the affected water users in a local enhanced management area, a public review hearing to review the designation shall be conducted by the chief engineer. This requested public review hearing shall not be conducted more frequently than every four years.

(k) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

(l) The provisions of this section shall be part of and supplemental to the provisions of K.S.A. 82a-1020 through K.S.A. 82a-1040, and amendments thereto.

New Sec. 5. (a) The chief engineer shall give due consideration to water management or conservation measures previously implemented by a water right holder when implementing any further limitations on a water right pursuant to any program established or implemented on and after July 1, 2015. The chief engineer shall take into account reductions in water use, changes in water management practices and other measures undertaken by such water right holder.

(b) This section shall be part of and supplemental to the Kansas water appropriation act.

Sec. 6. K.S.A. 2014 Supp. 82a-1604 is hereby amended to read as follows: 82a-1604. (a) The state may participate with a sponsor in the development, construction or renovation of a class I multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include future use public water supply storage in the project. The Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from the public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) The sponsor of such class I project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsections (a) and (c), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.

(c) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines

that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(d) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class I project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum ~~which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%, or (2) four percent equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.~~

Sec. 7. K.S.A. 2014 Supp. 82a-1605 is hereby amended to read as follows: 82a-1605. (a) The state may participate with a sponsor in the development, construction or renovation of a class II multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include future use public water supply storage in the project. The Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) In a class II project, the state may assume initial financial obligations for public water supply storage in watersheds by entering into long-term contracts with the federal government. In order to provide security to the federal government, the state may grant assignments of water rights, either appropriation rights or water reservation rights; assignments of rights under existing or prospective water purchase contracts; assignments, mortgages or other transfers of interests in real property held by the state and devoted to the specific small lake project for which security is sought; or may provide other security that is permissible under state law and acceptable by the federal government. Instead of

contracting to repay costs under long-term contracts, the state may pay all of the required costs of the public water supply storage in a lump sum.

(c) The sponsor of such class II project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The state or federal government may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (d), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.

(d) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(e) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class II project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum ~~which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%, or (2) four percent equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.~~

Sec. 8. K.S.A. 2014 Supp. 82a-1606 is hereby amended to read as follows: 82a-1606. (a) The state may participate with a sponsor in the development, construction or renovation of a class III multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If public water supply storage is included in the project, the sponsor of such class III project shall pay for 100% of the costs associated with the public water supply storage portion of such project unless the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a sponsor is not available to finance 100% of the costs associated with the public water supply storage, the state may participate in the future use public water supply storage costs of the project. If the state participates in the public water supply storage costs, the Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office shall

be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) The sponsor of such class III project shall be responsible for acquiring land rights and for the costs of operation and maintenance of the project. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (c), the state may pay up to 100% of the engineering and construction costs of flood control storage and public water supply storage. All other costs of such project, including land, construction, operation and maintenance, shall be paid by the sponsor.

(c) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(d) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class III project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum ~~which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%, or (2) four percent~~ *equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.*

Sec. 9. K.S.A. 82a-706b and K.S.A. 2014 Supp. 82a-708c, 82a-736, 82a-1041, 82a-1604, 82a-1605 and 82a-1606 are hereby repealed.

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

Approved May 19, 2015.

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## CHAPTER 61

## SENATE BILL No. 189

AN ACT concerning animal care; relating to the Kansas veterinary practice act; licensure; providing for an institutional license to practice veterinary medicine; the Kansas pet animal act; euthanasia; amending K.S.A. 47-815, 47-817, 47-829 and 47-1718 and K.S.A. 2014 Supp. 47-822, 47-830 and 76-4,112 and repealing the existing sections.

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

New Section 1. (a) There is hereby created a designation of institutional license to practice veterinary medicine, which may be issued by the board to a person employed by a school of veterinary medicine within this state.

(b) On or after July 1, 2016, any person who practices veterinary medicine on client-owned animals in direct association with such person's employment at a school of veterinary medicine within this state must be a licensed veterinarian or possess an institutional license to practice veterinary medicine, except that, on or after June 1, 2016, interns beginning employment at a school of veterinary medicine shall possess a veterinary license or an institutional license prior to the practice of veterinary medicine pursuant to such employment, and such license shall not expire until July 1 of the following year. The term of an institutional license for the year in which a resident's employment ends shall be extended to and expire on July 31, without the necessity of renewal. Residents whose employment ends in 2016 shall not be required to obtain a veterinary or institutional license to practice veterinary medicine at a school of veterinary medicine.

(c) An institutional license permits a holder thereof to practice veterinary medicine only as it relates to the holder's regular function within the school of veterinary medicine. Persons holding only an institutional license within this state shall be remunerated for the practice of veterinary medicine within the state solely from state, federal or institutional funds and not from the patient-owner beneficiary of their practice efforts. Practicing veterinary medicine beyond the scope of an institutional license shall be the equivalent of practicing veterinary medicine without a license, and shall be grounds for discipline in accordance with the provisions of this act.

(d) A license issued under this section shall be canceled by the board upon receipt of information that the holder of the license has left or has otherwise been discontinued from employment at a school of veterinary medicine within this state.

(e) A license issued pursuant to this section may be revoked or suspended or the licensee may be otherwise disciplined in accordance with the provisions of this act.

(f) This section shall be a part of and supplemental to the Kansas veterinary practice act.

New Sec. 2. (a) Any person desiring to practice veterinary medicine while employed by a school of veterinary medicine in this state, and who is not a licensed veterinarian, shall make written application to the board for an institutional license on forms provided for that purpose, or in a format otherwise acceptable to the board. The board shall issue an institutional license to practice veterinary medicine to an applicant who:

(1) Has obtained the degree of doctor of veterinary medicine or its equivalent;

(2) has passed the Kansas veterinary legal practice examination, which may be completed in person, by mail or by electronic means;

(3) is a person of good moral character;

(4) has paid the license application fee;

(5) provides proof of employment with a school of veterinary medicine within this state. This proof shall be provided by an authorized administrative official of the school of veterinary medicine;

(6) certifies that such person understands and agrees that the institutional license is valid only for the practice of veterinary medicine associated with such person's employment as a faculty member, intern, resident or locum of the school of veterinary medicine where employed; and

(7) provides other information and proof as the board may establish by rules and regulations.

(b) A school of veterinary medicine located within this state may, at its option, submit the applications of its employees desiring an institutional license in a compiled format acceptable to the board, with a single form of payment of the corresponding license application fees.

(c) This section shall be a part of and supplemental to the Kansas veterinary practice act.

Sec. 3. K.S.A. 47-815 is hereby amended to read as follows: 47-815. K.S.A. 47-814 through 47-854 *and sections 1 and 2*, and amendments thereto, shall be known and may be cited as the Kansas veterinary practice act.

Sec. 4. K.S.A. 47-817 is hereby amended to read as follows: 47-817. No person shall practice veterinary medicine in this state who is not currently and validly a licensed veterinarian. This act shall not be construed to prohibit:

(a) An employee of the federal, state or local government performing such employee's official duties.

(b) A person from gratuitously giving aid, assistance or relief in veterinary emergency cases if such person does not represent themselves to be veterinarians or use any title or degree appertaining to the practice thereof.

(c) A veterinarian regularly licensed in another state consulting with a licensed veterinarian in this state.

(d) Fisheries biologists actively employed by the state of Kansas, the United States government, or any person in the production or management of commercial food or game fish while in the performance of such persons' official duties.

(e) Any feeder utilizing and mixing antibiotics or other disease or parasite preventing drugs as a part of such feeder's feeding operations.

(f) The owner of an animal and the owner's regular employee caring for and treating the animal belonging to such owner, except where the ownership of the animal was transferred to avoid this act.

(g) *Before July 1, 2016*, a member of the faculty of a school of veterinary medicine performing such member's regular functions or a person lecturing, or giving instructions or demonstrations at a school of veterinary medicine or in connection with a continuing education course for veterinarians. *On or after July 1, 2016*:

(1) *The practice of veterinary medicine at a school of veterinary medicine in this state by a person possessing an institutional license;*

(2) *any person, including without limitation, a member of the faculty of a school of veterinary medicine, lecturing or giving instructions or demonstrations at a school of veterinary medicine or in connection with a continuing education course for veterinarians or veterinary technicians, except when such activities involve the practice of veterinary medicine on client-owned animals; or*

(3) *the temporary practice of veterinary medicine at a school of veterinary medicine in this state, for a period not exceeding 30 days per calendar year, by a person eligible to obtain a veterinary or institutional license upon examination and application for the same.*

(h) Any person engaging in bona fide scientific research which reasonably requires experimentation involving animals or commercial production of biologics or animal medicines.

(i) A nonstudent employee, independent contractor or any other associate of the veterinarian or a student in a school of veterinary medicine who has not completed at least three years of study and who performs prescribed veterinary procedures under the direct supervision of a licensed veterinarian or under the indirect supervision of a licensed veterinarian pursuant to rules and regulations of the board.

(j) A student who has completed at least three years of study in a school of veterinary medicine and who performs prescribed veterinary procedures assigned by such student's instructors or who works under direct or indirect supervision of a licensed veterinarian.

Sec. 5. K.S.A. 2014 Supp. 47-822 is hereby amended to read as follows: 47-822. (a) The fee for an application for a license to practice veterinary medicine in this state, as required by K.S.A. 47-824, and amendments thereto, shall be not less than \$50 nor more than \$250.

(b) *The fee for an application for an institutional license, issued pur-*

*suant to section 2, and amendments thereto, shall be not less than \$50 nor more than \$250, and the annual fee for renewal of an institutional license shall be not less than \$20 nor more than \$100.*

~~(b)~~(c) The annual fee for renewal of license required under K.S.A. 47-829, and amendments thereto, shall be not less than \$20 nor more than \$100.

~~(c)~~(d) The fee for each examination for licensure as required by K.S.A. 47-825, and amendments thereto, shall not be less than \$50 nor more than \$500.

~~(d)~~(e) The fee for an application for registration of a registered veterinary technician as provided in K.S.A. 47-821, and amendments thereto, shall be not less than \$20 nor more than \$50.

~~(e)~~(f) The annual fee for renewal of registration of a registered veterinary technician as provided in K.S.A. 47-821, and amendments thereto, shall be not less than \$5 nor more than \$25.

~~(f)~~(g) The fee for an application for registration of a premises required under K.S.A. 47-840, and amendments thereto, shall be not less than \$50 nor more than \$150.

~~(g)~~(h) The fee for renewal of registration of a premises required under K.S.A. 47-840, and amendments thereto, shall be not less than \$10 nor more than \$50.

~~(h)~~(i) A late fee of no more than \$50 may be assessed to a person requesting registration of a premises.

~~(i)~~(j) The fee for inspection or reinspection of a premises required to be registered under K.S.A. 47-840, and amendments thereto, shall be not less than \$50 nor more than \$150.

~~(j)~~(k) The fee for inspection and audit of the records and compliance with the standards of practice of any veterinarian shall be not less than \$50 nor more than \$150.

~~(k)~~(l) The board shall determine annually the amount necessary to carry out and enforce the provisions of this act and shall fix by rules and regulations the fees established in this section within the limitations provided in this section.

Sec. 6. K.S.A. 47-829 is hereby amended to read as follows: 47-829.

(a) All licenses, *including institutional licenses*, shall expire annually on June 30, *except as provided in section 1, and amendments thereto*, of each year but may be renewed by registration with the board and payment of the license renewal fee established and published by the board, pursuant to the provisions of K.S.A. 47-822, and amendments thereto. On June 1 of each year, the executive director shall mail a notice to each licensed veterinarian that the veterinarian's license will expire on June 30 and provide the veterinarian with a form for license renewal. *For institutional licenses as provided in section 1, and amendments thereto, a notice of the expiration of such license shall be mailed to the applicant and the school*

*of veterinary medicine at which the institutional licensee is employed not later than 30 days prior to the expiration of such license. The application for renewal of institutional licenses may be made in compiled format by the school of veterinary medicine for all of its employees desiring renewal, along with a single payment for all corresponding renewal fees.*

(1) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in Kansas or any other state, territory or the District of Columbia, and has not violated any of the provisions of the Kansas veterinary practice act. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline or violation.

(2) The board, as part of the renewal process, may make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

(b) A license may be renewed upon payment of the renewal fee as required by this section and the provision of satisfactory evidence that the licensee has participated in a minimum of 20 clock hours of continuing education. The burden of proof for showing such participation in continuing education hours shall be the responsibility of the licensee. The continuing education requirement may be waived for impaired veterinarians, as defined by ~~subsection (c) of K.S.A. 47-846(c)~~, and amendments thereto, and may be waived for veterinarians while they are on active military duty with any branch of the armed services of the United States during a time of national emergency which shall not exceed the longer of three years or the duration of a national emergency, *and shall be waived for persons possessing an institutional license.*

~~(c) All veterinarian licenses shall expire annually and must be renewed by making application to the board and payment of the license renewal fee.~~ Any person who practices veterinary medicine after the expiration of such person's license and willfully or by neglect fails to renew such license shall be practicing in violation of this act. Any license renewal application which is submitted beyond the annual renewal date shall be assessed a penalty fee not to exceed \$100 as established by the board by rules and regulations. In the event that the application for renewal of any veterinarian license *or institutional license* has not been submitted within 60 days of the expiration date of such license, the board shall notify the veterinarian by certified mail, return receipt requested, that the license has expired and shall not be reinstated unless such veterinarian submits an application for and requalifies for a new license and pays the license application fee not to exceed \$250 as established by the board by rules and regulations.

(d) The board, by rules and regulations, may waive the payment of the license renewal fee ~~of a licensed veterinarian~~ *any person holding a Kansas veterinary license or institutional license* during the period when

such ~~veterinarian~~ *person* is on active military duty with any branch of the armed services of the United States during a time of national emergency which shall not to exceed the longer of three years or the duration of a national emergency.

Sec. 7. K.S.A. 2014 Supp. 47-830 is hereby amended to read as follows: 47-830. The board, in accordance with the provisions of the Kansas administrative procedure act, may refuse to issue a license, revoke, suspend, limit, condition, reprimand or restrict a license to practice veterinary medicine *or an institutional license* for any of the following reasons:

(a) The employment of fraud, misrepresentation or deception in obtaining a license;

(b) an adjudication of incapacity by a court of competent jurisdiction;

(c) for having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof;

(d) false or misleading advertising;

(e) conviction of a felony or entering into a plea agreement or a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a felony;

(f) failure to provide a written response within the time prescribed by the board to a written request made by the board pursuant to an investigation by or on behalf of the board;

(g) employing, contracting with or utilizing in any manner any person in the unlawful practice of veterinary medicine;

(h) fraud or dishonest conduct in applying, treating or reporting diagnostic biological tests of public health significance or in issuing health certificates;

(i) failure of the veterinarian who is responsible for the operation and management of a veterinary premises to keep the veterinary premises in compliance with minimum standards established by rules and regulations as to sanitary conditions and physical plant;

(j) failure to report as required by law, or making false report of any contagious or infectious disease;

(k) dishonesty or negligence in the inspection of foodstuffs;

(l) cruelty or inhumane treatment to animals;

(m) disciplinary or administrative action taken by any federal, state or local regulatory agency or any foreign country on grounds other than nonpayment of registration fees;

(n) disclosure of any information in violation of K.S.A. 47-839, and amendments thereto;

(o) unprofessional conduct as defined in rules and regulations adopted by the board includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statute or any stat-

ute of this state, regarding controlled substances as defined in K.S.A. 65-4101, and amendments thereto;

(2) using unless lawfully prescribed, prescribing or administering to oneself or another person any of the controlled substances as defined in K.S.A. 65-4101, and amendments thereto or using, prescribing or administering any of the controlled substances as defined in K.S.A. 65-4101, and amendments thereto or alcoholic beverages or any other drugs, chemicals or substances to the extent, or in such a manner as to be dangerous or injurious to a person licensed under the Kansas veterinary practice act, to oneself or to any other person or to the public, or to the extent that such use impairs the ability of such person so licensed to conduct with safety the practice authorized by the license;

(3) the conviction of more than one misdemeanor or any felony involving the use, consumption or self-administration of any of the substances referred to in this section or any combination thereof;

(4) violation of or attempting to violate, directly or indirectly, any provision of the Kansas veterinary practice act or any rules and regulations adopted pursuant to such act; and

(5) violation of an order of the board;

(p) conviction of a crime substantially related to qualifications, functions or duties of veterinary medicine, surgery or dentistry;

(q) fraud, deception, negligence or incompetence in the practice of veterinary medicine;

(r) the use, prescription, administration, dispensation or sale of any veterinary prescription drug or the prescription of an extra-label use of any over-the-counter drug in the absence of a valid veterinary-client-patient relationship;

(s) failing to furnish details or copies of a patient's medical records or failing to provide reasonable access to or a copy of a patient's radiographs to another treating veterinarian, hospital or clinic, upon the written request of and authorization from an owner or owner's agent, or failing to provide the owner or owner's agent with a summary of the medical record within a reasonable period of time and upon proper request by the owner or owner's agent, or failing to comply with any other law relating to medical records; or

(t) determination that the veterinarian is impaired, as defined in K.S.A. 47-846, and amendments thereto, by a representative of the impaired veterinarian committee, or as determined by the board after a hearing.

Sec. 8. K.S.A. 2014 Supp. 76-4,112 is hereby amended to read as follows: 76-4,112. (a) There is hereby established the veterinary training program for rural Kansas at the college of veterinary medicine at Kansas state university which shall be developed and implemented in order to provide encouragement, opportunities and incentives for persons pur-

suing a veterinary medicine degree program at Kansas state university to locate their veterinary practice in rural Kansas communities and receive specialized training targeted to meet the needs of livestock producers and rural Kansas communities. The program shall be administered by the college of veterinary medicine at Kansas state university.

(b) Subject to the provisions of appropriation acts, in accordance with the provisions of this section, the college may enter into program agreements with up to five first-year veterinary students per year who have entered into a program agreement. Preference shall be given to those students who are Kansas residents and who agree to serve in a county as described in subsection (d)(3) which is determined to be an underserved area for the practice of veterinary medicine as determined by the college.

(c) Subject to the provisions of appropriation acts, each student entering into a program agreement under this section shall receive a loan in the amount of \$20,000 per year for not more than four years for tuition, books, supplies and other school expenses, and travel and training expenses incurred by the student in pursuing a veterinary medicine degree. Upon satisfaction of all commitments under the provisions of the agreement and the provisions of this section, the loans provided pursuant to this section shall be deemed satisfied and forgiven.

(d) Each program agreement shall require that the person receiving the loan:

(1) Complete the veterinary medicine degree program at the college;

(2) complete all advanced training in public health, livestock biosecurity, foreign animal disease diagnosis, regulatory veterinary medicine and zoonotic disease, and an externship and mentoring requirement with a licensed, accredited veterinarian in rural Kansas as required by the college;

(3) engage in the full-time practice of veterinary medicine in any county in Kansas which has a population not exceeding 35,000 at the time the person entered into the program agreement for a period of at least 12 continuous months for each separate year a student receives a loan under the program, unless such obligation is otherwise satisfied as provided in this section. A program agreement whereby the person pursuant to such agreement is engaging in the full-time practice of veterinary medicine in a county that no longer meets the maximum population requirements provided in this subsection after the date that such program agreement was entered into by the college and the person shall continue in full force and effect subject to the other requirements contained in this section;

(4) commence such full-time practice of veterinary medicine within 90 days after completion of such person's degree program, or if such person enters a post-degree training program such as a graduate school or internship or residency program, within 90 days after completion of such post-degree training program; and

(5) upon failure to satisfy the obligation to engage in the full-time practice of veterinary medicine in accordance with the provisions of this section, repay to the college, within 90 days of such failure, the amount equal to the amount loaned to such person less a prorated amount based on any such periods of practice of veterinary medicine meeting the requirements of this section, plus interest at the prime rate of interest plus 2% from the date such loan accrued. Such interest shall be compounded annually.

(e) An obligation to engage in the practice of veterinary medicine in accordance with the provisions of this section shall be postponed during: (1) Any period of temporary medical disability during which the person obligated is unable to practice veterinary medicine due to such disability; and (2) any other period of postponement agreed to or determined in accordance with criteria agreed to in the practice agreement.

(f) An obligation to engage in the practice of veterinary medicine in accordance with the provisions of the agreement and this section shall be satisfied: (1) If the obligation to engage in the practice of veterinary medicine in accordance with the agreement has been completed; (2) if, because of permanent disability, the person obligated is unable to practice veterinary medicine; or (3) the person obligated dies.

(g) The college may adopt additional provisions, requirements or conditions to participate in this program as are practicable and appropriate to accomplish the provisions of the program or may be required for the implementation or administration of the program, and, in any case, as are not inconsistent with the provisions of this section or the provisions of appropriation acts.

(h) As used in this section: (1) "College" means the college of veterinary medicine at Kansas state university; (2) "program" means the veterinary training program for rural Kansas established pursuant to this section; and (3) "program agreement" means an agreement to meet all the obligations provided in this section by a person who is a first-year veterinary student at the college, and provides benefits to such person as provided in this section.

~~(i) The college shall not enter into any program agreements pursuant to the provisions of this section after July 1, 2016. All program agreements entered into prior to such date shall continue in full force and effect subject to the requirements of this section. The dean of the college shall annually submit a report to the senate committee on agriculture and the house committee on agriculture and natural resources. Such annual report shall include details on the veterinary training program for rural Kansas, the veterinary diagnostic laboratory, the national bio and agro defense facility and other programs of the college.~~

Sec. 9. K.S.A. 47-1718 is hereby amended to read as follows: 47-1718.

(a) No animal shall be euthanized by any animal control officer, licensee,

permittee, officer of an animal shelter or officer of a pound by any means, method, agent or device, or in any way, except through the most current, approved euthanasia methods established by the American veterinary medical association panel on euthanasia. *The commissioner shall promulgate rules and regulations by December 31, 2015, regarding acceptable methods of euthanasia. Such acceptable methods may be more stringent than those established by the American veterinary medical association.*

(b) This section shall be part of and supplemental to article 17 of chapter 47 of the Kansas Statutes Annotated, *and amendments thereto.*

Sec. 10. K.S.A. 47-815, 47-817, 47-829 and 47-1718 and K.S.A. 2014 Supp. 47-822 and 47-830 and 76-4,112 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 19, 2015.

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## CHAPTER 62

Senate Substitute for HOUSE BILL No. 2155  
(Amended by Chapter 99)

AN ACT concerning gaming; dealing with charitable gaming; establishing the Kansas charitable gaming act; dealing with the Kansas lottery; dealing with fantasy sports; amending K.S.A. 74-8704, 74-8718 and 74-8720 and K.S.A. 2014 Supp. 21-6403 and 79-3603 and repealing the existing sections; also repealing K.S.A. 79-4702 and 79-4715 and K.S.A. 2014 Supp. 79-4701, 79-4701a, 79-4703, 79-4704, 79-4705, 79-4705a, 79-4706, 79-4707, 79-4708, 79-4710, 79-4711, 79-4712a, 79-4713, 79-4716, 79-4717, 79-4718 and 79-4719.

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

New Section 1. Sections 1 through 18, and amendments thereto, shall be known and may be cited as the Kansas charitable gaming act.

New Sec. 2. (a) The legislature hereby declares that charitable gaming conducted by charitable organizations is an important method of raising funds for legitimate charitable purposes and is in the public interest. The purpose of this act is to establish an effective and efficient mechanism for regulating charitable gaming which includes:

- (1) Defining the scope of charitable gaming activities;
- (2) setting standards for the conduct of charitable gaming which insure honesty and integrity;
- (3) providing for means of accounting for all moneys generated through the conduct of charitable gaming; and
- (4) providing suitable penalties for violations of applicable laws and administrative rules and regulations.

(b) The intent of this act is to:

- (1) Prevent the commercialization of charitable gaming;

(2) prevent participation in charitable gaming by criminal and other undesirable elements; and

(3) prevent the diversion of funds from legitimate charitable purposes.

(c) In order to carry out the purpose and intent, the provisions of this act and any administrative rules and regulations promulgated in accordance with this act shall be construed in the public interest and strictly enforced.

New Sec. 3. As used in this act:

(a) “Act” means the Kansas charitable gaming act.

(b) “Administrator” means the administrator of charitable gaming designated by the secretary pursuant to section 16, and amendments thereto.

(c) “Bingo” or “games of bingo” means the games of call bingo and instant bingo.

(d) “Bingo face” or “face” means a piece of paper which is marked off into 25 squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each, with each square being designated by a number, letter or combination of numbers and letters. Only the center square shall be designated with the word “free.” No two bingo faces in the same game shall be identical. Faces shall be disposable and shall not be reused after the game in which a player has used such face.

(e) “Call bingo” means a game in which: (1) Each player pays a charge; (2) a prize or prizes are awarded to the winner or winners; (3) each player receives one or more cards or faces; and (4) each player covers the squares on each card or face as the operator of such game announces a number, letter or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically from a receptacle in which have been placed objects bearing numbers, letters or combinations of numbers and letters corresponding to the system used for designating the squares. The winner of each game is the player or players first covering properly a predetermined and announced pattern of squares upon the card or face being used by such player or players.

“Call bingo” shall include any regular, special, mini and progressive game of bingo.

(f) “Charitable gaming” means bingo, including call bingo, and instant bingo and charitable raffles.

(g) “Charitable raffle” means a raffle conducted by a nonprofit religious, charitable, fraternal, educational or veterans’ organization.

(h) “Department” means the department of revenue.

(i) “Director” means the director of taxation.

(j) “Distributor” means any person or entity that sells or distributes instant bingo tickets, bingo cards or bingo faces.

(k) “Electronic gaming device” means a device that, as a result of the

insertion of a coin or other object, operates, either completely automatically or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value.

(l) “Instant bingo” means a game: (1) In which each player pays a charge; (2) in which a prize or prizes are awarded to the winner or winners; (3) in which each player receives one or more disposable pull-tab or break-open tickets which accord a player an opportunity to win something of value by opening or detaching the paper covering from the back of the ticket to reveal a set of numbers, letters, symbols or configurations, or any combination thereof; (4) which is conducted by a licensee under this act; (5) the conduct of which must be in the presence of the players; and (6) which does not utilize any dice, normal playing cards, instant ticket with a removable latex covering or slot machines.

Winners of instant bingo shall be determined either: (1) By a combination of letters, numbers or symbols determined and posted prior to the sale of instant bingo tickets; (2) by matching a letter, number or symbol under a tab of an instant bingo ticket with the winning letter, number or symbol in a designated call game of bingo during the same session; or (3) by matching a letter, number or symbol under a tab of an instant bingo ticket with one or more letters, numbers or symbols announced in, or as a continuation of, a designated call game of bingo during the same session.

“Instant bingo” shall not include any game utilizing electronically generated or computer-generated tickets.

(m) “Lessor” means the owner, co-owner, lessor or sublessor of premises upon which a licensee is permitted to manage, operate or conduct games of bingo.

(n) “Licensee” means any nonprofit organization holding a license to manage, operate or conduct games of bingo or charitable raffles pursuant to sections 1 through 18, and amendments thereto. A license shall be required for each affiliated organization of any state or national nonprofit religious, charitable, fraternal, educational or veteran’s organization.

(o) “Mini bingo” means a game of call bingo in which the prizes awarded are not less than 50% of the gross receipts derived from the sale of cards or faces for participation in the game.

(p) “Net proceeds” means the gross receipts received by the licensee from charges imposed on players for participation in games of bingo or raffles and any admission fees or charges less amounts actually paid as prizes in games of bingo or raffles and any tax payable by the licensee.

(q) “Nonprofit religious organization” means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship, and religious observances, or a society of individuals united for religious purposes at a definite place and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization, and which religious organization maintains an established place of

worship within this state and has a regular schedule of services or meetings at least on a weekly basis and has been determined by the administrator to be organized and created as a bona fide religious organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(3) or section 501(d) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit religious organization by the administrator.

(r) “Nonprofit charitable organization” means any organization which is organized and operated for:

(1) The relief of poverty, distress, or other condition of public concern within this state;

(2) financially supporting the activities of a charitable organization as defined in paragraph (1); or

(3) conferring direct benefits on the community at large; and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization and has been determined by the administrator to be organized and operated as a bona fide charitable organization and which has been exempted from the payment of federal income taxes as provided by sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6) and 501(c)(7) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit charitable organization by the administrator.

(s) “Nonprofit fraternal organization” means any organization within this state which exists for the common benefit, brotherhood, or other interests of its members and is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a fraternal, civic or service purpose within this state and has been determined by the administrator to be organized and operated as a bona fide fraternal organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(8) or section 501(c)(10) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit fraternal organization by the administrator.

(t) “Nonprofit educational organization” means any public or private elementary or secondary school or institution of higher education which has been determined by the administrator to be organized and operated as a bona fide educational organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(3) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit educational organization by the administrator.

(u) “Nonprofit veterans’ organization” means any organization within this state or any branch, lodge or chapter of a national or state organization within this state, the membership of which consists exclusively of individ-

uals who qualify for membership because they were or are members of the armed services or forces of the United States, or an auxiliary unit or society of such a nonprofit veterans' organization, the membership of which consists exclusively of individuals who were or are members of the armed services or forces of the United States, or are cadets, or are spouses, widows or widowers of individuals who were or are members of the armed services or forces of the United States, and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization, and has been determined by the administrator to be organized and operated as a bona fide veterans' organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(4) or 501(c)(19) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit veterans' organization by the administrator.

(v) "Person" means any natural person, corporation, partnership, trust or association.

(w) "Premises" means any room, hall, building, enclosure or outdoor area used for the management, operation or conduct of a game of bingo by a licensee.

(x) "Progressive bingo" means a game of call bingo in which either the established prize amount or number of bingo balls or objects called, or both, may be increased from one session to the next scheduled session if no player completes the required pattern within the specified number of bingo balls or objects drawn. The player's opportunity to win shall increase as the prize amount increases.

(y) "Raffle" means a game of chance in which each participant buys a ticket or tickets from a nonprofit organization with each ticket providing an equal chance to win a prize and the winner being determined by a random drawing.

(z) "Reusable bingo card" means a reusable card which is marked off into 25 squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each, with each square being designated by a number, letter or combination of numbers and letters. Only the center square shall be designated with the word "free." No two cards in the same game shall be identical.

(aa) "Secretary" means the secretary of revenue or the secretary's designee.

(bb) "Session" means a day on which a licensee conducts games of bingo.

New Sec. 4. (a) The power to regulate, license and tax the management, operation and conduct of and participation in games of bingo and raffles is hereby vested exclusively in the state.

(b) The raffle of a motor vehicle shall be deemed an isolated or oc-

casional sale of such motor vehicle to the raffle winner and subject to retailer's sales tax pursuant to K.S.A. 79-3603(o), and amendments thereto.

New Sec. 5. (a) Any bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization desiring to manage, operate or conduct games of bingo or raffles within the state of Kansas may make application for a license therefor in the manner provided under this section. Application for licenses required under the provisions of this act shall be made to the administrator upon forms prescribed by the administrator. The application shall contain:

- (1) The name and address of the organization;
  - (2) the particular place or location or multiple locations or premises for which a license is desired;
  - (3) a sworn statement verifying that such organization is a bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization authorized to operate within the state of Kansas signed by the presiding officer and secretary of the organization; and
  - (4) such other information as may be required by the administrator.
- (b) An application for a bingo license required under the provisions of this act shall be accompanied by a fee of \$25.

(c) (1) No license shall be required for any nonprofit religious, charitable, fraternal, educational or veterans' organization which conducts raffles the annual gross receipts which do not exceed \$25,000.

(2) Any such nonprofit organization which has annual gross receipts exceeding \$25,000 from raffles shall pay an annual fee according to the following schedule:

(A) Nonprofit organizations where annual gross receipts are more than \$25,000 but do not exceed \$50,000 shall pay a license fee of \$25.

(B) Nonprofit organizations where annual gross receipts which exceed \$50,000 but do not exceed \$75,000 shall pay a license fee of \$50.

(C) Nonprofit organizations where annual gross receipts exceed \$75,000 but do not exceed \$100,000 shall pay a license fee of \$75.

(D) Nonprofit organizations where annual gross receipts exceed \$100,000 shall pay a fee of \$100.

(3) Upon recommendations of the administrator, the secretary shall adopt rules and regulations to implement the license requirements for nonprofit organizations conducting raffles.

(d) No charitable gaming licensee shall use an electronic gaming device to sell raffle tickets or to conduct raffles. No raffle licensee shall contract with a professional raffle or lottery vendor to manage, operate or conduct any raffle.

(e) All licenses issued under the provisions of this act shall be issued in the name of the organization licensed.

(f) No bingo license or raffle license shall be issued to any bona fide

nonprofit religious, charitable, fraternal, educational or veterans' organization if any of its officers, directors or officials:

(1) Have been convicted of, have pleaded guilty to or pleaded nolo contendere to a violation of gambling laws of any state or the gambling laws of the United States, or shall have forfeited bond to appear in court to answer charges for any such violation, or have been convicted or pleaded guilty or pleaded nolo contendere to the violation of any law of this or any other state which is classified as a felony under the laws of such state; or

(2) at the time of application for renewal of a bingo license or raffle license issued hereunder would not be eligible for such license upon a first application.

(g) Each bingo license, raffle license and bingo certificate issued shall expire at midnight on June 30 following its date of issuance.

(h) A bingo licensee may hold only one license. Any licensee may operate or conduct games of bingo at locations that are specified in the license. However, any licensee may operate or conduct games of bingo at locations other than that specified in the license upon approval of the administrator. If any licensee does operate or conduct games of bingo under this provision at a location other than that specified in the license, such licensee shall submit a written notification to the administrator, three days prior to operating or conducting bingo at such other location. No organization shall be issued a license to operate or conduct games of bingo at any location outside the county or an adjoining county within which such organization is located as reported in its application for licensure pursuant to subsection (a). Licenses issued under the provisions of this act shall not be transferred or assignable. If any organization licensed to play bingo changes any of its officers, directors or officials during the term of its bingo license, such organization shall report the names and addresses of such individuals to the administrator immediately with the sworn statement of each such individual as required by this section on forms prescribed by the administrator. No organization which denies its membership to persons for the reason of their race, color or physical handicap, shall be granted or allowed to retain a license issued under the authority of this act. Except for nonprofit adult care homes licensed under the laws of the state of Kansas, no license shall be issued to any organization under the provisions of this act which has not been in existence continuously within the state of Kansas for a period of 18 months immediately preceding the date of making application for a license. The licensee shall display the license in a prominent place in the vicinity of the area where it is to conduct bingo.

(i) No lessor of premises used for the management, operation or conduct of any games of bingo shall permit the management, operation or conduct of bingo games on such premises unless such lessor has been issued a registration certificate by the administrator. Application for reg-

istration shall be accompanied by a fee of \$100. Such application shall be made upon forms prescribed by the administrator and shall be submitted to the administrator. The application shall contain:

(1) The name or names of the lessor of the premises which will be used for the management, operation or conduct of any games of bingo including, in the case of a corporation, partnership, association, trust or other entity, the names of all individuals having more than a 10% ownership interest, either directly or indirectly in such entity;

(2) the address of such premises;

(3) the name or names of any and all organizations which will manage, operate or conduct any games of bingo on such premises during the period for which the registration certificate is valid; and

(4) such other information as may be required by the administrator.

(j) Each registration certificate, or renewal thereof, issued under the provisions of subsection (g) shall expire at midnight on June 30 following its date of issuance. The certificate of registration shall be valid for only one premises and shall be displayed in a prominent place in the registered premises.

(k) No registration certificate issued under provisions of subsection (g) shall be issued for any premises if any individual who is connected in any way, directly or indirectly, with the owner or lessor of the premises, within five years prior to registration, has been convicted of or pleaded guilty or nolo contendere to any felony or illegal gambling activity or purchased a tax stamp for wagering or gambling activity.

(l) Any bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization that conducts charitable raffles for which the aggregate gross receipts from such raffles in the fiscal year does not exceed \$25,000 shall be exempt from the provisions of this section, except that such organization shall be subject to the provisions of subsection (d) regarding how such raffles are managed, operated and conducted.

New Sec. 6. For the purpose of providing revenue which may be used by the state and for the privilege of operating or conducting games of bingo under the authority of this act:

(a) There is hereby levied and there shall be collected and paid by each licensee a tax at the rate of 3% upon the gross receipts received by the licensee from charges for participation in call bingo games using reusable bingo cards and any admission fees or charges. The tax imposed by this section shall be in addition to the license fee imposed under K.S.A. 79-4703, and amendments thereto.

(b) There is hereby levied and there shall be collected and paid by each distributor a tax at a rate of \$0.002 upon each bingo face sold or distributed by the distributor to each licensee conducting call bingo games within the state of Kansas. The distributor shall include the tax due under this subsection in the sales price of each bingo face paid by

the licensee and such tax shall be itemized separately on the invoice provided to the licensee.

(c) There is hereby levied and there shall be collected and paid by each distributor a tax at a rate of 1% upon the total of the printed retail sales price of all tickets in each box of instant bingo tickets sold or distributed by the distributor to each licensee conducting instant bingo games within the state of Kansas. The distributor shall include the tax due under this subsection in the sales price of each box paid by the licensee and such tax shall be itemized separately on the invoice provided to the licensee.

(d) If a distributor does not receive payment in full from a licensed organization within 60 days of the delivery of call bingo and instant bingo supplies, the supplier shall notify the department of charitable gaming in writing of the delinquency. Upon receipt of the notice of delinquency, the department of charitable gaming may revoke or suspend the license.

(e) Whenever, in the judgment of the administrator, it is necessary, in order to secure the collection of the tax due under subsection (b), the administrator shall require any distributor subject to such tax to file a bond with the director under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

New Sec. 7. (a) On dates prescribed by the administrator, every licensee conducting bingo shall make a return to the administrator upon forms prescribed by the administrator. Such form shall contain:

- (1) The name and address of the licensee;
- (2) the amount of the gross receipts received from charges for participation in games using bingo cards during the preceding reporting period;
- (3) the number of bingo faces and the name of the distributor from whom such faces were purchased or otherwise obtained during the preceding reporting period;
- (4) the amount of the gross receipts received from charges for admission to the premises for participation in games of bingo during the preceding reporting period;
- (5) the number of each denomination of instant bingo tickets sold during the preceding reporting period; and
- (6) such other information as the administrator may deem necessary.

(b) On dates prescribed by the administrator, every licensee conducting raffles for which a license fee is required pursuant to section 5, and amendments thereto, shall make a return to the administrator upon forms prescribed by the administrator. Such form shall contain:

- (1) The name and address of the licensee;
- (2) the amount of gross receipts received from raffles conducted by the licensee; and

(3) any other information deemed necessary by the administrator.

(c) On dates prescribed by the administrator, every distributor shall make a return to the administrator upon forms prescribed by the administrator. Such form shall state:

(1) The number of instant bingo tickets sold or distributed to each licensee;

(2) the amount of the retail sales price of such tickets;

(3) the number of bingo cards sold or distributed to each licensee;

(4) the number of bingo faces sold or distributed to each licensee; and

(5) such other information as the administrator may deem necessary.

At the time of making such return, the distributor shall remit to the administrator an amount equal to 98% of the tax due under section 6(b), and amendments thereto.

(d) If any licensee or distributor fails to make a return or remit any tax, when required to do so by the provisions of this act, except in the case of an extension of time granted by the administrator, there shall be added to the tax determined to be due a penalty of 25% of the amount of such tax, together with interest at the rate per month prescribed by K.S.A. 79-2968(a), and amendments thereto, from the date the tax was due until paid.

(e) If any tax determined and assessed by the administrator is not remitted due to fraud with intent to evade the tax imposed by this act, there shall be added thereto a penalty of 50% of the amount of such tax, together with interest at the rate per month prescribed by K.S.A. 79-2968(a), and amendments thereto, from the date the tax was due until paid.

(f) Whenever, in the judgment of the administrator, the failure of any licensee or distributor to comply with the provisions of subsection (a), (b), (c) or (d) was due to reasonable cause, the administrator, in the administrator's discretion, may waive or reduce any of the penalties or interest imposed by this section, upon making a record of the reason therefor.

(g) The penalties imposed under this section shall be in addition to all other penalties imposed by law.

New Sec. 8. (a) For the purpose of ascertaining the correctness of any return or for the purpose of determining the receipts and remittances of any licensee or distributor, the administrator may examine any books, papers, records or memoranda, bearing upon the matters required to be included in the records of the licensee or distributor. The administrator may require the attendance of the licensee or distributor in the county where the licensee or distributor resides, or where the location of the registered premises for bingo games or raffles are located, or of any per-

son having knowledge relating to such records, and may take testimony and require proof of such person or persons.

(b) The administrator may issue subpoenas to compel access to or for the production of such books, papers, records or memoranda in the custody of or to which the licensee or distributor has access, or to compel the appearance of such persons. The administrator may issue interrogatories to any such person to the same extent and subject to the same limitations as would apply if the subpoena or interrogatories were issued or served in aid of a civil action in the district court. The administrator may administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was in aid of a civil action in the district court. In case of the refusal of any person to comply with any subpoena or interrogatory or to testify to any matter regarding which such person lawfully may be questioned, the district court of any county, upon application of the administrator, may order such person to comply with such subpoena or interrogatory or to testify. Failure to obey the court's order may be punished by the court as contempt. Subpoenas or interrogatories issued under the provisions of this section may be served upon individuals and corporations in the manner provided in K.S.A. 60-304, and amendments thereto, for the service of process by any officer authorized to serve subpoenas in civil actions or by the administrator.

New Sec. 9. Games of bingo shall be managed, operated and conducted in accordance with the Kansas charitable gaming act and rules and regulations adopted pursuant thereto and the following restrictions:

(a) The entire gross receipts received by any licensee from the operation or conduct of games of bingo, except that portion utilized for the payment of the cost of prizes and license fees and taxes on games of bingo imposed under the provisions of this act, shall be used exclusively for the lawful purposes of the licensee permitted to conduct that game.

(b) Games of bingo shall be managed, conducted or operated by a bona fide member or spouse of a bona fide member of the licensee or parent organization, an auxiliary unit or society or a beneficiary organization of such licensee or of the beneficiary organization. During each session of bingo there must be at least one member of the licensee organization on duty and assisting with the game. Such member must be listed with the office of charitable gaming.

(c) No person may participate in the management, conduct or operation of bingo games or raffles by a licensee if such person, within five years prior to such participation, has been convicted of or pleaded guilty or nolo contendere to any felony or illegal gambling activity or purchased a tax stamp for wagering or gambling activity.

(d) No person may receive any remuneration or profit for participating in the management, conduct or operation of any game of bingo or

any raffle managed, conducted or operated by a licensee unless such remuneration or profit goes to the benefit of another nonprofit group. Any employee of the licensee, however, may assist in the conduct of any charitable gaming event.

(e) (1) The aggregate value of all prizes including the retail value of all merchandise awarded or offered by a licensee in a single session to winners of games of call bingo shall not exceed \$1,200. The administrator shall increase the call bingo cap on July 1 of each year to reflect changes in the consumer price index for all urban consumers as published by the United States department of labor for the preceding fiscal year. The value of a prize awarded in a progressive or mini bingo game shall not be included when determining the limit imposed by this subsection. Any monetary prize of \$1,199 or more awarded in games of bingo shall be paid by a check drawn on the bingo trust bank account of the licensee. Any monetary prize awarded in games of bingo shall be paid by a check on the bingo trust bank account of the licensee upon the request of the winner of such award.

(2) Charitable raffle licensees shall report to the department the name and address of all raffle winners of any prize the retail value of which is \$1,199 or more.

(f) The retail value of any merchandise received by a winner of a bingo game shall be considered as the cash value for the purposes of determining the value of the prize.

(g) Each licensee shall keep a record of all games of bingo and charitable raffles managed, operated or conducted by it for a period of three years following the date the game is managed, operated or conducted.

(h) No person under the age of 18 years shall participate in the management, operation or conduct of any game of bingo managed, operated or conducted by a licensee under the provisions of this act and no licensee shall sell any instant bingo ticket to a person under the age of 18 years.

(i) No licensee shall manage, operate or conduct bingo on any leased premises or with leased equipment unless all of the terms and conditions of rental or use, including the rental of chairs, bingo equipment, tables, security guards, janitor service or any other services, are set forth in a lease submitted, approved and on file with the administrator.

(j) Every licensee who has gross receipts of \$1,000 or more received from participation in games, admission fees or charges and from any other source directly related to the operation or conduct of any games of bingo in any calendar month shall maintain a bingo trust bank account into which all such receipts are deposited daily and from which all payments are made relating to the management, operation or conduct of any games of bingo. Having once established such bingo trust bank account, the licensee shall continue to make deposits of all receipts therein. Every licensee shall notify the administrator of the name of the bank in which the bingo trust bank account is maintained, together with the number

and name of the account. Every licensee who maintains a bingo trust bank account shall maintain a complete record of all deposits and withdrawals from such bank account and the same shall be available to the administrator to audit at any reasonable time.

The records required under this subsection are in addition to all other records required to be kept by the licensee. The records required by this subsection shall be maintained in the same place as all other records required to be kept by the licensee.

(k) No licensee shall purchase or obtain bingo faces or instant bingo tickets from any person or entity other than a distributor registered pursuant to section 14, and amendments thereto.

(l) All instant bingo tickets sold or distributed to licensees shall bear on the face thereof a unique serial number which shall not be repeated on the same manufacturer's form number less than every three years. All instant bingo tickets shall be sold or distributed in boxes. Each box shall be sealed by the manufacturer with a seal which includes a warning to the purchaser that the box may have been tampered with if the box was received by the purchaser with the seal broken. Each box of instant bingo tickets shall contain tickets printed in such a manner as to insure that at least 60% of the gross revenues generated by the ultimate sale of all tickets from such box shall be returned to the final purchasers of such tickets. No box of instant bingo tickets may be opened by a licensee unless all tickets contained in a previously opened box with the same form number have been sold.

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

(n) (1) Progressive bingo games may be conducted in conjunction with a session of bingo.

(2) A licensee shall not cease bingo operations unless all progressive bingo games are completed and prizes are awarded, unless prior approval has been received from the secretary.

(3) The rules for a progressive bingo game shall remain in effect until the game ends and the winner is determined.

(4) All progressive bingo games and rules for such games shall be described fully and posted in the house rules prior to the start of the session. Such games shall comply with requirements imposed under the

Kansas charitable gaming act and any rules and regulations adopted pursuant thereto.

(5) When a person achieves the first preannounced winning combination, the game shall be completed and the next progressive bingo game and winning combination shall be commenced with a new bingo card or face and all objects or balls in the receptacle.

(6) No progressive bingo game may exceed 20 consecutive sessions conducted by a licensee prior to awarding the established prize.

(7) If the progressive bingo game prize is not awarded at a bingo session, the progressive bingo game shall be continued at a future occasion until such time a winner is determined. The winning prize shall be the full amount. If there is no winner of a progressive bingo game at a session, a stated consolation prize in an amount not to exceed \$1,000 may be awarded. Any consolation prize shall be less than the value of the progressive bingo game prize amount.

(o) Any bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization that conducts charitable raffles for which the aggregate gross receipts from such raffles in the fiscal year does not exceed \$25,000 shall be exempt from the provisions of this section.

New Sec. 10. (a) The administrator, after a hearing in accordance with the provisions of the Kansas administrative procedure act, may revoke or suspend any license or registration certificate issued under the provisions of this act for any of the following reasons:

(1) The licensee or registrant has obtained the license or registration certificate by giving false information in the application therefor;

(2) the licensee or registrant has violated any of the laws of the state of Kansas or provisions of this act or any rules and regulations adopted pursuant thereto for the registration, licensing, taxing, management, conduct or operation of games of bingo or raffles; or

(3) the licensee or registrant has become ineligible to obtain a license under this act.

(b) Any action of the administrator pursuant to subsection (a) is subject to review in accordance with the Kansas judicial review act. In case of the revocation of the license of any licensee or the registration of any registrant, no new license or registration shall be issued to such lessor, sublessor or organization, or any person acting for or on its behalf, for a period of six months thereafter. No revocation or suspension of a license or registration certificate shall be for a period in excess of one year if the applicant otherwise is qualified on the date the applicant makes a new application therefor.

(c) The administrator is hereby authorized to enjoin any person from managing, operating or conducting any raffle or any games of bingo, or from leasing any premises for such purposes, if such person does not possess a valid license or registration certificate issued pursuant to the

provisions of the Kansas charitable gaming act. The administrator shall be entitled to have an order restraining such person from managing, operating or conducting any raffle or any games of bingo or for any other purpose contrary to the provisions of the Kansas charitable gaming act or from leasing premises for any of such purposes. No bond shall be required for any such restraining order, nor for any temporary or permanent injunction issued in such proceedings.

New Sec. 11. (a) The administration and enforcement of the Kansas charitable gaming act and any rules and regulations adopted pursuant thereto shall be vested in the administrator.

(b) Upon recommendation of the administrator, the secretary shall adopt all rules and regulations necessary for the administration and enforcement of the Kansas charitable gaming act by the administrator.

New Sec. 12. (a) All amounts received by or for the administrator from license and registration fees pursuant to 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 state charitable gaming regulation fund, except as provided by section 13, and amendments thereto.

(b) All amounts received by or for the administrator from the tax levied pursuant to section 6, 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.

(c) There is hereby created, in the state treasury, the state charitable gaming regulation fund. Except as provided by section 13, and amendments thereto, each deposit remitted to the state treasurer pursuant to subsection (b) shall be credited to the state charitable gaming regulation fund. Except as provided by subsections (d) and (e), all moneys in the state charitable gaming regulation fund shall be expended for the administration and enforcement of the Kansas charitable gaming act, and rules and regulations adopted pursuant thereto. Such expenditures shall be made upon vouchers approved by the administrator.

(d) Except as otherwise provided by this act, all operating expenses of the administrator related to the administration and enforcement of the Kansas charitable gaming act appropriated by the legislature shall be paid from the state charitable gaming regulation fund. At the end of each fiscal year, the director of accounts and reports shall transfer to the state general fund any moneys in the state charitable gaming regulation fund on each such date in excess of the amount required to pay all operating expenses of the administrator related to the administration and enforcement of the Kansas charitable gaming act.

New Sec. 13. There is hereby created the charitable gaming refund

fund in the state treasury. The Kansas charitable gaming refund fund shall be a refund clearing fund and refunds of the fees imposed under section 5, and amendments thereto, and of the tax levied under section 6, and amendments thereto, shall be made from such fund. The charitable gaming refund fund shall be maintained by the administrator from the license and registration fees received and taxes collected under the Kansas charitable gaming act in an amount sufficient for such refunds not to exceed \$10,000.

New Sec. 14. (a) No person or entity shall sell or distribute any bingo faces, bingo cards or instant bingo tickets to any licensee unless such person or entity has been issued a distributor registration certificate by the administrator. Application for registration shall be submitted to the administrator and shall be accompanied by a fee of \$500 and shall be made upon forms prescribed by the administrator.

(b) Each distributor registration certificate shall expire at midnight on June 30 following its date of issuance. Application for renewal of a registration certificate shall be submitted to the administrator and shall be accompanied by a fee of \$500 and shall be made upon forms prescribed by the administrator.

(c) The administrator shall establish, by rules and regulations adopted under the Kansas charitable gaming act, reasonable criteria for approval of applications for registration. The administrator shall refuse to register a distributor if any owner, manager or employee thereof, within five years prior to registration, has been convicted of or pleaded guilty or nolo contendere to any felony or illegal gambling violation in this or any other jurisdiction.

(d) All distributors shall maintain for a period of not less than three years full and complete records of all bingo cards, bingo faces and instant bingo tickets sold or distributed to licensees. Such records shall be made available for inspection by any authorized representative of the administrator.

New Sec. 15. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the administrator, upon a finding that a licensee, lessor or distributor has violated any provision of the Kansas charitable gaming act or any rule and regulation adopted pursuant thereto, shall impose on such licensee, lessor or distributor a civil fine not exceeding \$500 for each violation.

(b) No fine shall be imposed pursuant to this section except upon the written order of the administrator to the licensee, lessor or distributor who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the licensee, lessor or distributor to appeal the order. Such order shall be subject to appeal and review in the manner provided by the Kansas administrative procedure act.

(c) Any fine 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. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state charitable gaming regulation fund.

New Sec. 16. (a) The secretary of revenue shall designate an administrator of charitable gaming. The administrator of charitable gaming shall be in the unclassified service and shall receive an annual salary fixed by the secretary of revenue and approved by the governor.

(b) Under the supervision of the secretary, the administrator of charitable gaming shall administer and enforce the provisions of the Kansas charitable gaming act and any rules and regulations adopted pursuant thereto. The administrator's exclusive duties shall be the administration and enforcement of the Kansas charitable gaming act and any rules and regulations adopted pursuant thereto. The administrator shall be solely accountable to and report to the secretary of revenue.

New Sec. 17. If any provision of the Kansas charitable gaming act or the application thereof to any person or circumstances is held unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the act which can be given effect without the unconstitutional or invalid provision or application, and, to this end, the provisions of this act are severable.

New Sec. 18. (a) The department of revenue shall adopt rules and regulations governing the conduct of raffles by nonprofit religious, charitable, fraternal, educational and veterans' organizations. The rules and regulations may include, but not be limited to, standards for the preparation, sale and accountability of tickets, the conduct of drawings and the awarding of prizes.

(b) The administrator shall prepare an annual report on the operation of charitable raffles in this state. The report shall contain any recommended changes to the law to enhance the enforcement of the act. The annual report shall be submitted to the house and senate committees on federal and state affairs. The report shall be submitted on or before January 15 of each year beginning in 2016 and ending with the report due on or before January 15, 2018.

Sec. 19. K.S.A. 2014 Supp. 21-6403 is hereby amended to read as follows: 21-6403. As used in K.S.A. 2014 Supp. 21-6403 through 21-6409, and amendments thereto:

(a) "Bet" means a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

(1) Bona fide business transactions which are valid under the law of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities, and agreements to compensation for loss caused by the happening of the chance including,

but not limited to, contracts of indemnity or guaranty and life or health and accident insurance;

(2) offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the bona fide owners of animals or vehicles entered in such a contest;

(3) a lottery as defined in this section;

(4) any bingo game by or for participants managed, operated or conducted in accordance with the laws of the state of Kansas by an organization licensed by the state of Kansas to manage, operate or conduct games of bingo;

(5) a lottery operated by the state pursuant to the Kansas lottery act;

(6) any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act;

(7) tribal gaming;

(8) *charitable raffles as defined by section 3, and amendments thereto;*

or

(9) *a fantasy sports league as defined in this section;*

(b) “lottery” means an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance. A lottery does not include:

(1) A lottery operated by the state pursuant to the Kansas lottery act;

or

(2) tribal gaming;

(c) “consideration” means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration. “Consideration” shall not include sums of money paid by or for:

(1) Participants in any bingo game managed, operated or conducted in accordance with the laws of the state of Kansas by any bona fide non-profit religious, charitable, fraternal, educational or veteran organization licensed to manage, operate or conduct bingo games under the laws of the state of Kansas and it shall be conclusively presumed that such sums paid by or for such participants were intended by such participants to be for the benefit of the sponsoring organizations for the use of such sponsoring organizations in furthering the purposes of such sponsoring organizations, as set forth in the appropriate paragraphs of ~~subsection (c) or (d) of section 501(c) or (d) of the internal revenue code of 1986 and as set forth in K.S.A. 79-4701, and amendments thereto;~~

(2) participants in any lottery operated by the state pursuant to the Kansas lottery act;

(3) participants in any system of parimutuel wagering managed, op-

erated and conducted in accordance with the Kansas parimutuel racing act; or

(4) a person to participate in tribal gaming;

(d) “*fantasy sports league*” means any fantasy or simulation sports game or contest in which no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization and that meets the following conditions:

(1) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants;

(2) all winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individual athletes in multiple real-world sporting events; and

(3) no winning outcome is based:

(A) On the score, point spread or any performance or performances of any single real-world team or any combination of such teams; or

(B) solely on any single performance of an individual athlete in any single real-world sporting event.

~~(d)~~(e) (1) “gambling device” means any:

(A) So-called “slot machine” or any other machine, mechanical device, electronic device or other contrivance an essential part of which is a drum or reel with insignia thereon, and:

(i) Which when operated may deliver, as the result of chance, any money or property; or

(ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(B) other machine, mechanical device, electronic device or other contrivance including, but not limited to, roulette wheels and similar devices, which are equipped with or designed to accommodate the addition of a mechanism that enables accumulated credits to be removed, is equipped with or designed to accommodate a mechanism to record the number of credits removed or is otherwise designed, manufactured or altered primarily for use in connection with gambling, and:

(i) Which when operated may deliver, as the result of chance, any money or property; or

(ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(C) subassembly or essential part intended to be used in connection with any such machine, mechanical device, electronic device or other contrivance, but which is not attached to any such machine, mechanical device, electronic device or other contrivance as a constituent part; or

(D) any token, chip, paper, receipt or other document which evi-

dences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet.

The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

(2) “Gambling device” shall not include:

(A) Any machine, mechanical device, electronic device or other contrivance used or for use by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission or by the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

(B) any machine, mechanical device, electronic device or other contrivance, such as a coin-operated bowling alley, shuffleboard, marble machine, a so-called pinball machine, or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and:

(i) Which when operated does not deliver, as a result of chance, any money; or

(ii) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money;

(C) any so-called claw, crane or digger machine and similar devices which are designed and manufactured primarily for use at carnivals or county or state fairs; or

(D) any machine, mechanical device, electronic device or other contrivance used in tribal gaming;

~~(e)~~(f) “gambling place” means any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place;

~~(f)~~(g) “tribal gaming” means the same as in K.S.A. 74-9802, and amendments thereto; and

~~(g)~~(h) “tribal gaming commission” means the same as in K.S.A. 74-9802, and amendments thereto.

Sec. 20. K.S.A. 2014 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 6.15%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an

additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) the gross receipts from intrastate, interstate or international telecommunications services and any ancillary services sourced to this state in accordance with K.S.A. 2014 Supp. 79-3673, and amendments thereto, except that telecommunications service does not include: (1) Any interstate or international 800 or 900 service; (2) any interstate or international private communications service as defined in K.S.A. 2014 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice data service; (4) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (5) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for 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, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device

dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501, and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto, but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from:

(1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to ~~paragraph Ninth~~ of K.S.A. 79-

201 *Ninth*, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to ~~paragraphs Eighth and Ninth of~~ K.S.A. 79-201 *Eighth and Ninth*, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; ~~or~~ (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of ~~clause paragraph~~ (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004, which the base for computing the tax was the value pursuant to ~~subsections (a), (b)(1) and (b)(2) of~~ K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when such amount was higher than the amount of sales tax which would have been paid under the law as it existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be in an amount equal to the difference between the amount of sales tax paid by the taxpayer and the amount of sales tax which would have been paid by the taxpayer under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act 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 tax paid as provided by this act. All such 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 of taxation or the director's designee. No refund for an amount less than \$10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility;

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(5) "utility structure" shall mean transmission and distribution lines owned by an independent transmission company or cooperative, the Kan-

sas electric transmission authority or natural gas or electric public utility; and

(6) “windstorm” shall mean straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintaining prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services;

(u) the gross receipts received from the sale of prepaid calling service and prepaid wireless calling service as defined in K.S.A. 2014 Supp. 79-3673, and amendments thereto; ~~and~~

~~(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq., and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 section 1 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section; and~~

*(w) all sales of charitable raffle tickets in accordance with section 1 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section.*

Sec. 21. K.S.A. 74-8704 is hereby amended to read as follows: 74-8704. (a) The executive director shall have the power to:

(1) Supervise and administer the operation of the state lottery in accordance with the provisions of this act and such rules and regulations as adopted hereunder.

(2) Appoint, subject to the Kansas civil service act and within the limitations of appropriations therefor, all other employees of the Kansas

lottery, which employees shall be in the classified service unless otherwise specifically provided by this act.

(3) Enter into contracts for advertising and promotional services, subject to the provisions of subsection (b); annuities or other methods deemed appropriate for the payment of prizes; data processing and other technical products, equipment and services; and facilities as needed to operate the Kansas lottery, including, but not limited to, gaming equipment, tickets and other services involved in major procurement contracts, in accordance with K.S.A. 74-8705, and amendments thereto.

(4) Enter into contracts with persons for the sale of lottery tickets or shares to the public, as provided by this act and rules and regulations adopted pursuant to this act, which contracts shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(5) Require lottery retailers to furnish proof of financial stability or furnish surety in an amount based upon the expected volume of sales of lottery tickets or shares.

(6) Examine, or cause to be examined by any agent or representative designated by the executive director, any books, papers, records or memoranda of any lottery retailer for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder.

(7) Issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any lottery retailer, or to compel the appearance of any lottery retailer or employee of any lottery retailer, for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder. Subpoenas issued under the provisions of this subsection may be served upon natural persons and corporations in the manner provided in K.S.A. 60-304, and amendments thereto, for the service of process by any officer authorized to serve subpoenas in civil actions or by the executive director or an agent or representative designated by the executive director. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to the district court of any county where such books, papers, records, memoranda or person is located for an order to comply.

(8) Administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition were in aid of a civil action in the district court.

(9) Require fingerprinting of employees and such other persons who work in sensitive areas within the lottery as deemed appropriate by the director. The director may submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such employees and persons and obtaining records of their criminal arrests and convictions.

(b) The Kansas lottery shall not engage in on-site display advertising or promotion of the lottery at any amateur athletic or sporting event

~~including, but not limited to, amateur athletic sporting events at institutions under the jurisdiction and control of the state board of regents where the majority of participating athletes are under the age of 18, including, but not limited to, events under the jurisdiction and control of the Kansas state high school activities association.~~

Sec. 22. K.S.A. 74-8718 is hereby amended to read as follows: 74-8718. (a) It is unlawful:

(1) To sell a lottery ticket or share at a price other than that fixed by rules and regulations adopted pursuant to this act;

(2) for any person other than *the Kansas lottery* or a lottery retailer authorized by the Kansas lottery to sell or resell any lottery ticket or share;

(3) to sell a lottery ticket or share to any person, knowing such person to be under 18 years of age; or

(4) to sell a lottery ticket at retail by electronic mail, the internet or telephone.

(b) (1) Violation of this section is a class A nonperson misdemeanor upon conviction for a first offense; and

(2) violation of this section is a severity level 9, nonperson felony upon conviction for a second or subsequent offense.

Sec. 23. K.S.A. 74-8720 is hereby amended to read as follows: 74-8720. (a) As nearly as practical, an amount equal to not less than 45% of the total sales of lottery tickets or shares, computed on an annual basis, shall be allocated for payment of lottery prizes.

(b) The prize to be paid or awarded for each winning ticket or share shall be paid to one natural person who is adjudged by the executive director, the director's designee or the retailer paying the prize, to be the holder of such winning ticket or share, or the person designated in writing by the holder of the winning ticket or share on a form satisfactory to the executive director, except that the prize of a deceased winner shall be paid to the duly appointed representative of the estate of such winner or to such other person or persons appearing to be legally entitled thereto.

(c) The executive director shall award the designated prize to the holder of the ticket or share upon the validation of a claim or confirmation of a winning share. The executive director shall have the authority to make payment for prizes by any means deemed appropriate upon the validation of winning tickets or shares.

(d) The right of a person to a prize drawn or awarded is not assignable.

(e) *No person under 18 years of age shall be eligible to claim a lottery prize.*

~~(e)~~(f) All prizes awarded shall be taxed as Kansas source income and shall be subject to all state and federal income tax laws and rules and regulations. State income taxes shall be withheld from prizes paid when-

ever federal income taxes are required to be withheld under current federal law.

~~(f)~~(g) Unclaimed prize money not payable directly by lottery retailers shall be retained for the period established by rules and regulations and if no claim is made within such period, then such unclaimed prize money shall be added to the prize pools of subsequent lottery games.

~~(g)~~(h) The state of Kansas, members of the commission and employees of the Kansas lottery shall be discharged of all further liability upon payment of a prize pursuant to this section.

~~(h)~~(i) The Kansas lottery shall not publicly disclose the identity of any person awarded a prize except upon written authorization of such person.

Sec. 24. K.S.A. 74-8704, 79-4702, 74-8718, 74-8720 and 79-4715 and K.S.A. 2014 Supp. 21-6403, 79-3603, 79-4701, 79-4701a, 79-4703, 79-4704, 79-4705, 79-4705a, 79-4706, 79-4707, 79-4708, 79-4710, 79-4711, 79-4712a, 79-4713, 79-4716, 79-4717, 79-4718 and 79-4719 are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 19, 2015.

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## CHAPTER 63

Senate Substitute for HOUSE BILL No. 2149

AN ACT concerning the Kansas program of medical assistance; relating to donor human breast milk and medications used under medicaid; amending K.S.A. 2014 Supp. 39-7,119, 39-7,120 and 39-7,121b and repealing the existing sections.

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

New Section 1. (a) The department of health and environment shall reimburse a medical care facility for prescribed medically necessary donor human breast milk provided to a recipient of medical assistance under the Kansas program of medical assistance if:

- (1) Such recipient is:
  - (A) An infant under the age of three months;
  - (B) critically ill; and
  - (C) in the neonatal intensive care unit of the hospital;
- (2) a person licensed to practice medicine and surgery orders the donor human breast milk for the recipient;
- (3) the department determines that the donor human breast milk is medically necessary for the recipient;
- (4) the parent or legal guardian of the recipient signs and dates an

informed consent form indicating the risks and benefits of using banked donor human breast milk; and

(5) the donor human breast milk is obtained from a donor human breast milk bank that meets the quality requirements established by the department of health and environment.

(b) An electronic prior authorization system that uses the best medical evidence and care and treatment guidelines consistent with national standards shall be used by the department to determine medical necessity.

(c) The department shall promulgate rules and regulations necessary to implement the provisions of this section prior to July 1, 2016.

(d) The department shall implement and administer the provisions of this section in a manner consistent with applicable federal laws and regulations. The department shall seek any necessary approvals of the federal government that are required for the implementation of this section.

(e) As used in this section:

(1) "Department" means the department of health and environment.

(2) "Medical care facility" shall mean the same as in K.S.A. 65-425, and amendments thereto.

Sec. 2. K.S.A. 2014 Supp. 39-7,119 is hereby amended to read as follows: 39-7,119. (a) There is hereby created the medicaid drug utilization review board which shall be responsible for the implementation of retrospective and prospective drug utilization programs under the Kansas medicaid program.

(b) Except as provided in subsection (i), the board shall consist of at least seven members appointed as follows:

(1) Two licensed physicians actively engaged in the practice of medicine, nominated by the Kansas medical society and appointed by the secretary of health and environment from a list of four nominees;

(2) one licensed physician actively engaged in the practice of osteopathic medicine, nominated by the Kansas association of osteopathic medicine and appointed by the secretary of health and environment from a list of four nominees;

(3) two licensed pharmacists actively engaged in the practice of pharmacy, nominated by the Kansas pharmacy association and appointed by the secretary of health and environment from a list of four nominees;

(4) one person licensed as a pharmacist and actively engaged in academic pharmacy, appointed by the secretary of health and environment from a list of four nominees provided by the university of Kansas; and

(5) one licensed professional nurse actively engaged in long-term care nursing, nominated by the Kansas state nurses association and appointed by the secretary of health and environment from a list of four nominees.

(c) The secretary of health and environment may add two additional

members so long as no class of professional representatives exceeds 51% of the membership.

(d) The physician and pharmacist members shall have expertise in the clinically appropriate prescribing and dispensing of outpatient drugs.

(e) The appointments to the board shall be for terms of three years. In making the appointments, the secretary of health and environment shall provide for geographic balance in the representation on the board to the extent possible. Subject to the provisions of subsection (i), members may be reappointed.

(f) The board shall elect a chairperson from among board members who shall serve a one-year term. The chairperson may serve consecutive terms.

(g) The board, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.

(h) All actions of the medicaid drug utilization review board shall be upon the affirmative vote of five members of the board and the vote of each member present when action was taken shall be recorded by roll call vote.

(i) Upon the expiration of the term of office of any member of the medicaid drug utilization review board on or after the effective date of this act and in any case of a vacancy existing in the membership position of any member of the medicaid drug utilization review board on or after the effective date of this act, a successor shall be appointed by the secretary of health and environment so that as the terms of members expire, or vacancies occur, members are appointed and the composition of the board is changed in accordance with the following and such appointment shall be made by the secretary of health and environment in the following order of priority:

(1) One member shall be a licensed pharmacist who is actively performing or who has experience performing medicaid pharmacy services for a hospital and who is nominated by the Kansas hospital association and appointed by the secretary of health and environment from a list of two or more nominees;

(2) one member shall be a licensed pharmacist who is actively performing or who has experience performing medicaid pharmacy services for a licensed adult care home and who is nominated by the state board of pharmacy and appointed by the secretary of health and environment from a list of two or more nominees;

(3) one member shall be a licensed physician who is actively engaged in the general practice of allopathic medicine and who has practice experience with the state medicaid plan and who is nominated by the Kansas medical society and appointed by the secretary of health and environment from a list of two or more nominees;

(4) one member shall be a licensed physician who is actively engaged

in mental health practice providing care and treatment to persons with mental illness, who has practice experience with the state medicaid plan and who is nominated by the Kansas psychiatric society and appointed by the secretary of health and environment from a list of two or more nominees;

(5) one member shall be a licensed physician who is the medical director of a nursing facility, who has practice experience with the state medicaid plan and who is nominated by the Kansas medical society and appointed by the secretary of health and environment from a list of two or more nominees;

(6) one member shall be a licensed physician who is actively engaged in the general practice of osteopathic medicine, who has practice experience with the state medicaid plan and who is nominated by the Kansas association of osteopathic medicine and who is appointed by the secretary of health and environment from a list of two or more nominees;

(7) one member shall be a licensed pharmacist who is actively engaged in retail pharmacy, who has practice experience with the state medicaid plan and who is nominated by the state board of pharmacy and appointed by the secretary of health and environment from a list of two or more nominees;

(8) one member shall be a licensed pharmacist who is actively engaged in or who has experience in research pharmacy and who is nominated jointly by the Kansas task force for the pharmaceutical research and manufacturers association and the university of Kansas and appointed by the secretary of health and environment from a list of two or more jointly nominated persons; and

(9) one member shall be a licensed advanced practice registered nurse or physician assistant actively engaged in the practice of providing the health care and treatment services such person is licensed to perform, who has practice experience with the state medicaid plan and who is nominated jointly by the Kansas state nurses' association and the Kansas academy of physician assistants and appointed by the secretary of health and environment from a list of two or more jointly nominated persons.

*(j) The medicaid drug utilization review board shall meet at least quarterly and such meetings shall be open to the public and shall provide an opportunity for public comments. The board shall post notice of such meetings at least 14 business days before the scheduled meetings.*

Sec. 3. K.S.A. 2014 Supp. 39-7,120 is hereby amended to read as follows: 39-7,120. (a) The secretary of health and environment ~~shall not restrict patient access to prescription only drugs pursuant to a program of prior authorization or a restrictive formulary except by rules and regulations adopted in accordance with K.S.A. 75-5625, and amendments thereto. Prior to the promulgation of any such rules and regulations, the secretary of health and environment shall submit such proposed rules and~~

~~regulations to the medicaid drug utilization review board for written comment may implement prior authorization of any new prescription-only drugs until such drugs are reviewed by the medicaid drug utilization review board at the next scheduled meeting. New drugs shall be approved for use when such drugs are used within package insert guidelines approved by the federal food and drug administration and clinically reputable compendia, such as the United States pharmacopeia, as approved by the secretary of health and environment, during the period before such drugs are reviewed by the medicaid drug utilization review board. The secretary of health and environment may not implement permanent prior authorization until 30 days after receipt of comments by the medicaid drug utilization review board.~~

(b) When considering recommendations from the medicaid drug utilization review board regarding the prior authorization of a drug, the secretary of health and environment shall consider the net economic impact of such prior authorization, including, but not limited to, the costs of specific drugs, rebates or discounts pursuant to 42 U.S.C. § 1396r-8, dispensing costs, dosing requirements and utilization of other drugs or other medicaid health care services which may be related to the prior authorization of such drug.

Sec. 4. K.S.A. 2014 Supp. 39-7,121b is hereby amended to read as follows: 39-7,121b. ~~(a) No requirements for prior authorization or other restrictions on medications used to treat mental illnesses such as schizophrenia, depression or bipolar disorder may be imposed on medicaid recipients. Medications that will be available under the state medicaid plan without restriction for persons with mental illnesses shall include atypical antipsychotic medications, conventional antipsychotic medications and other medications used for the treatment of mental illnesses, except on medications subject to guidelines developed by the medicaid drug utilization review board according to subsection (b). None of the following shall be construed as restrictions under this subsection:~~

(1) ~~Any alert to a pharmacist that does not deny the claim and can be overridden by the pharmacist;~~

(2) ~~prescriber education activities; or~~

(3) ~~the consolidation of dosing regimens to equivalent doses.~~

(b) ~~The mental health medication advisory committee shall provide recommendations to the medicaid drug utilization review board for the purpose of developing guidelines. The medicaid drug utilization review board may accept the recommendations of the mental health medication advisory committee in whole and such recommendations shall take effect immediately upon such approval. The medicaid drug utilization review board may reject the recommendations of the mental health medication advisory committee in whole and such recommendations shall be referred back to the mental health medication advisory committee for further con-~~

sideration. No medication guidelines related to mental health medications shall be adopted by the medicaid drug utilization review board without recommendations made by the mental health medication advisory committee.

(c) For the medications used to treat mental illness that are available for use on July 1, 2015, the medicaid drug utilization review board shall review all such medications prior to July 1, 2016. For medications used to treat mental illness that do not exist on July 1, 2015, but are later developed or believed to be effective in the treatment of mental illness, the medicaid drug utilization board shall review all such medications within six months of presentation to the medicaid drug utilization review board.

(d) The mental health medication advisory committee is hereby established.

(1) The mental health medication advisory committee shall be appointed by the secretary of health and environment and consist of nine members; including the secretary of health and environment, or the secretary's designee, who shall be the chair of the committee; two persons licensed to practice medicine and surgery with board certification in psychiatry nominated by the Kansas psychiatric society, one of whom specializes in geriatric mental health; two persons licensed to practice medicine and surgery with board certification in psychiatry nominated by the association of community mental health centers of Kansas, one of whom specializes in pediatric mental health; two pharmacists nominated by the Kansas pharmacists association; one person licensed to practice medicine and surgery nominated by the Kansas medical society; and one advanced practice registered nurse engaged in a role of mental health nominated by the Kansas state nurses association. All nominating bodies shall provide two nominees for each position for which they provide nominations, with the secretary selecting the appointee from the provided nominees.

(2) The mental health medication advisory committee shall meet upon the request of the chair of the mental health medication advisory committee, but shall meet at least one time each quarter.

(3) Members of the mental health medication advisory committee are entitled to compensation and expenses as provided in K.S.A. 75-3223, and amendments thereto. Members of the committee attending committee meetings shall be paid mileage and all other applicable expenses, provided such expenses are consistent with policies established by the secretary of health and environment.

Sec. 5. K.S.A. 2014 Supp. 39-7,119, 39-7,120 and 39-7,121b are hereby repealed.

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

## CHAPTER 64

## SENATE BILL No. 105

AN ACT concerning the uniform interstate family support act; amending K.S.A. 2014 Supp. 23-36,101, 23-36,102, 23-36,103, 23-36,201, 23-36,202, 23-36,203, 23-36,204, 23-36,205, 23-36,206, 23-36,207, 23-36,208, 23-36,209, 23-36,301, 23-36,303, 23-36,304, 23-36,305, 23-36,306, 23-36,307, 23-36,308, 23-36,310, 23-36,311, 23-36,312, 23-36,313, 23-36,314, 23-36,316, 23-36,317, 23-36,318, 23-36,319, 23-36,401, 23-36,501, 23-36,502, 23-36,503, 23-36,504, 23-36,505, 23-36,506, 23-36,507, 23-36,601, 23-36,602, 23-36,603, 23-36,604, 23-36,605, 23-36,606, 23-36,607, 23-36,608, 23-36,609, 23-36,610, 23-36,611, 23-36,612, 23-36,613, 23-36,701, 23-36,801, 23-36,802, 23-36,901 and 23-36,902 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 23-36,101 is hereby amended to read as follows: 23-36,101. ~~In this act:~~

(a) ~~“Child” means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual’s parent or who is or is alleged to be the beneficiary of a support order directed to the parent.~~

(b) ~~“Child support order” means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.~~

(c) ~~“Duty of support” means an obligation imposed or imposable by law to provide support for a child, spouse or former spouse, including an unsatisfied obligation to provide support.~~

(d) ~~“Home state” means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.~~

(e) ~~“Income” includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.~~

(f) ~~“Income withholding order” means an order or other legal process directed to an obligor’s employer, or other debtor, as defined by the income withholding act, K.S.A. 2014 Supp. 23-3101, and amendments thereto, to withhold support from the income of the obligor.~~

(g) ~~“Initiating state” means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this act or a law or procedure substantially similar to this act, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act.~~

(h) ~~“Initiating tribunal” means the authorized tribunal in an initiating state.~~

(i) —“Issuing state” means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(j) —“Issuing tribunal” means the tribunal that issues a support order or renders a judgment determining parentage.

(k) —“Law” includes decisional and statutory law and rules and regulations having the force of law.

(l) —“Obligee” means:

(1) —An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(2) —a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(3) —an individual seeking a judgment determining parentage of the individual’s child.

(m) —“Obligor” means an individual, or the estate of a decedent:

(1) —Who owes or is alleged to owe a duty of support;

(2) —who is alleged, but has not been, adjudicated to be a parent of a child; or

(3) —who is liable under a support order.

(n) —“Register” means to file a support order or judgment determining parentage in the responding court.

(o) —“Registering tribunal” means a tribunal in which a support order is registered.

(p) —“Responding state” means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this act or a law or procedure substantially similar to this act, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(q) —“Responding tribunal” means the authorized tribunal in a responding state.

(r) —“Spousal support order” means a support order for a spouse or former spouse of the obligor.

(s) —“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes:

(1) —An Indian tribe; and

(2) —a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this act, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act.

(t) —“Support enforcement agency” means a public official or agency authorized to seek:

~~(1) Enforcement of support orders or laws relating to the duty of support;~~

~~(2) establishment or modification of child support;~~

~~(3) determination of parentage; or~~

~~(4) to locate obligors or their assets.~~

~~(u) "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, for the benefit of a child, a spouse or a former spouse, which provides for monetary support, health care, arrearages or reimbursement, and may include related costs and fees, interest, income withholding, attorney fees and other relief.~~

~~(v) "Tribunal" means a court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage. This act may be cited as the uniform interstate family support act.~~

Sec. 2. K.S.A. 2014 Supp. 23-36,102 is hereby amended to read as follows: 23-36,102. ~~The courts are the tribunals of this state. In this act:~~

~~(a) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.~~

~~(b) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.~~

~~(c) "Convention" means the convention on the international recovery of child support and other forms of family maintenance, concluded at The Hague on November 23, 2007.~~

~~(d) "Duty of support" means an obligation imposed or imposed by law to provide support for a child, spouse or former spouse, including an unsatisfied obligation to provide support.~~

~~(e) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:~~

~~(1) Which has been declared under the law of the United States to be a foreign reciprocating country;~~

~~(2) which has established a reciprocal arrangement for child support with this state as provided in K.S.A. 2014 Supp. 23-36,308, and amendments thereto;~~

~~(3) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this act; or~~

~~(4) in which the convention is in force with respect to the United States.~~

~~(f) "Foreign support order" means a support order of a foreign tribunal.~~

(g) “Foreign tribunal” means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

(h) “Home state” means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(i) “Income” includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(j) “Income withholding order” means an order or other legal process directed to an obligor’s employer, or other debtor, as defined by the income withholding act, K.S.A. 2014 Supp. 23-3101, and amendments thereto, to withhold support from the income of the obligor.

(k) “Initiating tribunal” means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(l) “Issuing foreign country” means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(m) “Issuing state” means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(n) “Issuing tribunal” means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(o) “Law” includes decisional and statutory law and rules and regulations having the force of law.

(p) “Obligee” means:

(1) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(2) a foreign country, state or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(3) an individual seeking a judgment determining parentage of the individual’s child; or

(4) a person that is a creditor in a proceeding under part 7 of this act.

(q) “Obligor” means an individual, or the estate of a decedent that:

- (1) *Owes or is alleged to owe a duty of support;*
  - (2) *is alleged, but has not been, adjudicated to be a parent of a child;*
  - (3) *is liable under a support order; or*
  - (4) *is a debtor in a proceeding under part 7 of this act.*
- (r) *“Outside this state” means a location in another state or a country other than the United States, whether or not the country is a foreign country.*

(s) *“Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.*

(t) *“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.*

(u) *“Register” means to file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.*

(v) *“Registering tribunal” means a tribunal in which a support order or judgment determining parentage of a child is registered.*

(w) *“Responding state” means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.*

(x) *“Responding tribunal” means the authorized tribunal in a responding state or foreign country.*

(y) *“Spousal support order” means a support order for a spouse or former spouse of the obligor.*

(z) *“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.*

(aa) *“Support enforcement agency” means a public official, governmental entity or private agency authorized to:*

(1) *Seek enforcement of support orders or laws relating to the duty of support;*

(2) *seek establishment or modification of child support;*

(3) *request determination of parentage of a child;*

(4) *attempt to locate obligors or their assets; or*

(5) *request determination of the controlling child support order.*

(bb) *“Support order” means a judgment, decree, order, decision or directive, whether temporary, final or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse or a former spouse, which provides for monetary support, health care, arrearages, retroactive support or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include*

*related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney fees and other relief.*

(cc) “Tribunal” means a court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage of a child.

Sec. 3. K.S.A. 2014 Supp. 23-36,103 is hereby amended to read as follows: 23-36,103. ~~Remedies provided by this act are cumulative and do not affect the availability of remedies under other law.~~ (a) *The courts are the tribunals of this state.*

(b) *The department for children and families is the support enforcement agency of this state.*

New Sec. 4. (a) Remedies provided by this act are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

(b) This act does not:

(1) Provide the exclusive method of establishing or enforcing a support order under the law of this state; or

(2) grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody, parenting time or visitation pursuant to K.S.A. 2014 Supp. 23-3201 et seq., and amendments thereto, in a proceeding under this act.

New Sec. 5. (a) A tribunal of this state shall apply parts 1 through 6 of this act and, as applicable, part 7 of this act, to a support proceeding involving:

(1) A foreign support order;

(2) a foreign tribunal; or

(3) an obligee, obligor, or child residing in a foreign country.

(b) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of parts 1 through 6 of this act.

(c) Part 7 of this act applies only to a support proceeding under the convention. In such a proceeding, if a provision of part 7 of this act is inconsistent with parts 1 through 6 of this act, part 7 of this act controls.

Sec. 6. K.S.A. 2014 Supp. 23-36,201 is hereby amended to read as follows: 23-36,201. (a) In a proceeding to establish, ~~or enforce or modify~~ a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual’s guardian or conservator if:

~~(a)~~(1) The individual is personally served with notice within this state;

~~(b)~~(2) the individual submits to the jurisdiction of this state by consent *in a record*, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

~~(c)~~(3) the individual resided with the child in this state;

~~(d)~~(4) the individual resided in this state and provided prenatal expenses or support for the child;

~~(e)~~(5) the child resides in this state as a result of the acts or directives of the individual;

~~(f)~~(6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

~~(g)~~(7) the individual asserted parentage of a child in the putative father registry maintained in this state by the secretary of the Kansas department for children and families; or

~~(h)~~(8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

*(b) The bases of personal jurisdiction set forth in subsection (a) or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of K.S.A. 2014 Supp. 23-36,611, and amendments thereto, are met, or, in the case of a foreign support order, unless the requirements of section 55, and amendments thereto, are met.*

Sec. 7. K.S.A. 2014 Supp. 23-36,202 is hereby amended to read as follows: 23-36,202. ~~A tribunal of this state exercising personal jurisdiction over a nonresident under K.S.A. 2014 Supp. 23-36,201, and amendments thereto, may apply K.S.A. 2014 Supp. 23-36,316, and amendments thereto (special rules of evidence and procedure), to receive evidence from another state, and K.S.A. 2014 Supp. 23-36,318, and amendments thereto (assistance with discovery), to obtain discovery through a tribunal of another state. In all other respects, K.S.A. 2014 Supp. 23-36,103, 23-36,201 through 23-36,209, 23-36,301 through 23-36,319, 23-36,401, 23-36,501, 23-36,502, 23-36,601 through 23-36,612 and 23-36,701, and amendments thereto, do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this act. Personal jurisdiction acquired by a tribunal of this state in a proceeding under this act or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by K.S.A. 2014 Supp. 23-36,205, 23-36,206 and section 16, and amendments thereto.~~

Sec. 8. K.S.A. 2014 Supp. 23-36,203 is hereby amended to read as follows: 23-36,203. Under this act, a tribunal of this state may serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or a foreign country.

Sec. 9. K.S.A. 2014 Supp. 23-36,204 is hereby amended to read as follows: 23-36,204. (a) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed

after a ~~petition or comparable~~ pleading is filed in another state *or foreign country* only if:

(1) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state *or the foreign country* for filing a responsive pleading challenging the exercise of jurisdiction by the other state *or the foreign country*;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state *or the foreign country*; and

(3) if relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state *or a foreign country* if:

(1) The petition or comparable pleading in the other state *or foreign country* is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(2) the contesting party timely challenges the exercise of jurisdiction in this state; and

(3) if relevant, the other state *or foreign country* is the home state of the child.

Sec. 10. K.S.A. 2014 Supp. 23-36,205 is hereby amended to read as follows: 23-36,205. (a) A tribunal of this state ~~issuing that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction over a to modify its child support order if the order is the controlling order and:~~

(1) ~~As long as~~ *At the time of the filing of a request for modification this state remains is the residence of the obligor, the individual obligee or the child for whose benefit the support order is issued; or*

(2) ~~until all of the parties who are individuals have filed written consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.~~

(b) A tribunal of this state ~~issuing that has issued a child support order consistent with the law of this state may not exercise its continuing, exclusive jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to this act or to a law substantially similar to this act.:~~

(1) *All of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located*

*in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or*

(2) *its order is not the controlling order.*

(c) ~~If a child support order of this state is modified by a tribunal of another state pursuant to this act or to a law substantially similar to this act, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:~~

~~(1) Enforce the order that was modified as to amounts accruing before the modification;~~

~~(2) enforce nonmodifiable aspects of that order; and~~

~~(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.~~ *If a tribunal of another state has issued a child support order pursuant to the uniform interstate family support act or a law substantially similar to that act which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.*

(d) ~~A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to this act or to a law substantially similar to this act that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.~~

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

~~(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.~~

Sec. 11. K.S.A. 2014 Supp. 23-36,206 is hereby amended to read as follows: 23-36,206. (a) A tribunal of this state ~~that has issued a child support order consistent with the law of this state~~ may serve as an initiating tribunal to request a tribunal of another state to enforce ~~or modify a support order issued in that state:~~

(1) *The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the uniform interstate family support act; or*

(2) *a money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.*

(b) A tribunal of this state having continuing, ~~exclusive~~ jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, ~~exclusive~~ jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply K.S.A. 2014 Supp. 23-36,316, and amendments thereto (special rules of evidence and procedure), to receive evidence from another state and K.S.A. 2014 Supp. 23-36,318, and amendments thereto (assistance with discovery), to obtain discovery through a tribunal of another state.

(c) ~~A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.~~

Sec. 12. K.S.A. 2014 Supp. 23-36,207 is hereby amended to read as follows: 23-36,207. (a) If a proceeding is brought under this act and only one tribunal has issued a child support order, the order of that tribunal controls and must be ~~so~~ recognized.

(b) If a proceeding is brought under this act, and two or more child support orders have been issued by tribunals of this state ~~or, another state or a foreign country~~ with regard to the same obligor and same child, a tribunal of this state *having personal jurisdiction over both the obligor and individual obligee* shall apply the following rules ~~in determining and by order shall determine~~ which order ~~to recognize for purposes of continuing, exclusive jurisdiction~~ controls and must be recognized:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under this act, the order of that tribunal controls ~~and must be so recognized.~~

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this act,:

(A) An order issued by a tribunal in the current home state of the child controls ~~and must be so recognized, but; or~~

(B) if an order has not been issued in the current home state of the child, the order most recently issued controls ~~and must be so recognized.~~

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this act, the tribunal of this state ~~having jurisdiction over the parties~~ shall issue a child support order, which controls ~~and must be so recognized.~~

(c) If two or more child support orders have been issued for the same obligor and same child ~~and if the obligor or the individual obligee resides in this state~~, upon request of a party ~~may request~~ who is an individual or that is a support enforcement agency, a tribunal of this state ~~to having~~ personal jurisdiction over both the obligor and the obligee ~~who is an individual~~ shall determine which order controls ~~and must be so recognized~~ under subsection (b). The request ~~must be accompanied by a certified copy of every support order in effect. The requesting party shall give~~

~~notice of the request to each party whose rights may be affected by the determination. The request may be filed with a registration for enforcement or registration for modification pursuant to part 6 of this act, or may be filed as a separate proceeding.~~

(d) *A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.*

~~(d)(e)~~ (e) The tribunal that issued the controlling order under subsection (a), (b) or (c) ~~is the tribunal that~~ has continuing, ~~exclusive~~ jurisdiction ~~under to the extent provided in K.S.A. 2014 Supp. 23-36,205 or 23-36,206,~~ and amendments thereto.

~~(e)(f)~~ (f) A tribunal of this state ~~which that~~ determines by order ~~the identity of which is~~ the controlling order under subsection (b)(1) or (2) or (c), or ~~which that~~ issues a new controlling order under subsection (b)(3), shall state in that order:

- (1) The basis upon which the tribunal made its determination;
- (2) *the amount of prospective support, if any; and*
- (3) *the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by K.S.A. 2014 Supp. 23-36,209, and amendments thereto.*

~~(f)(g)~~ (g) Within 30 days after issuance of an order determining ~~the identity of which is~~ the controlling order, the party obtaining the order shall file a certified copy of it ~~with in~~ each tribunal that issued or registered an earlier order of child support. A party ~~who obtains or support enforcement agency obtaining the order and that~~ fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(h) *An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this act.*

Sec. 13. K.S.A. 2014 Supp. 23-36,208 is hereby amended to read as follows: 23-36,208. In responding to ~~multiple~~ registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state *or a foreign country*, a tribunal of this state shall enforce those orders in the same manner as if the ~~multiple~~ orders had been issued by a tribunal of this state.

Sec. 14. K.S.A. 2014 Supp. 23-36,209 is hereby amended to read as follows: 23-36,209. ~~Amounts~~ *A tribunal of this state shall credit amounts collected and credited for a particular period pursuant to a support order*

*any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this state, another state ~~must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state or a foreign country.~~*

New Sec. 15. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this act, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to K.S.A. 2014 Supp. 23-36,316, and amendments thereto, communicate with a tribunal outside this state pursuant to K.S.A. 2014 Supp. 23-36,317, and amendments thereto, and obtain discovery through a tribunal outside this state pursuant to K.S.A. 2014 Supp. 23-36,318, and amendments thereto. In all other respects, parts 3 through 6 of this act do not apply and the tribunal shall apply the procedural and substantive law of this state.

New Sec. 16. (a) A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(b) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(c) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:

(1) An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or

(2) a responding tribunal to enforce or modify its own spousal support order.

Sec. 17. K.S.A. 2014 Supp. 23-36,301 is hereby amended to read as follows: 23-36,301. (a) Except as otherwise provided in this act, K.S.A. 2014 Supp. 23-36,301 through 23-36,319, and amendments thereto, apply to all proceedings under this act.

~~(b) This act provides for the following proceedings:~~

~~(1) Establishment of an order for spousal support or child support pursuant to K.S.A. 2014 Supp. 23-36,401, and amendments thereto;~~

~~(2) enforcement of a support order and income withholding order of another state without registration pursuant to K.S.A. 2014 Supp. 23-36,501 and 23-36,502, and amendments thereto;~~

~~(3) registration of an order for spousal support or child support of another state for enforcement pursuant to K.S.A. 2014 Supp. 23-36,601 through 23-36,612, and amendments thereto;~~

~~(4) modification of an order for child support or spousal support is-~~

sued by a tribunal of this state pursuant to K.S.A. 2014 Supp. 23-36,203 through 23-36,206, and amendments thereto;

(5) registration of an order for child support of another state for modification pursuant to K.S.A. 2014 Supp. 23-36,601 through 23-36,612, and amendments thereto;

(6) determination of parentage pursuant to K.S.A. 2014 Supp. 23-36,701, and amendments thereto; and

(7) assertion of jurisdiction over nonresidents pursuant to K.S.A. 2014 Supp. 23-36,201 and 23-36,202, and amendments thereto.

(e)(b) An individual petitioner or a support enforcement agency may ~~commence~~ *initiate* a proceeding authorized under this act by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country which has or can obtain personal jurisdiction over the respondent.

Sec. 18. K.S.A. 2014 Supp. 23-36,303 is hereby amended to read as follows: 23-36,303. Except as otherwise provided by ~~in~~ this act, a responding tribunal of this state *shall*:

(a) ~~Shall~~ Apply the procedural and substantive law, ~~including the rules on choice of law,~~ generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(b) ~~shall~~ determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

Sec. 19. K.S.A. 2014 Supp. 23-36,304 is hereby amended to read as follows: 23-36,304. (a) Upon the filing of a petition authorized by this act, an initiating tribunal of this state shall forward ~~three copies of~~ the petition and its accompanying documents:

(1) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) ~~If a responding state has not enacted this act or a law or procedure substantially similar to this act~~ *requested by the responding tribunal*, a tribunal of this state ~~may~~ *shall* issue a certificate or other document and make findings required by the law of the responding state. If the responding ~~state~~ *tribunal* is in a foreign ~~jurisdiction~~ *country*, upon request the tribunal ~~may~~ *of this state shall* specify the amount of support sought, *convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported* and provide *any* other documents necessary to satisfy the requirements of the responding ~~state~~ *foreign tribunal*.

Sec. 20. K.S.A. 2014 Supp. 23-36,305 is hereby amended to read as

follows: 23-36,305. (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to ~~subsection (c) of K.S.A. 2014 Supp. 23-36,301(b)~~, and amendments thereto ~~(proceedings under this act)~~, it shall cause the petition or pleading to be filed and notify the petitioner ~~only by personal service or registered mail, return receipt requested~~ where and when it was filed.

(b) A responding tribunal of this state, to the extent ~~otherwise authorized~~ *not prohibited* by other law, may do one or more of the following:

(1) ~~Issue~~ Establish or enforce a support order, modify a child support order, *determine the controlling support order* or ~~render a judgment to determine parentage of a child~~;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, *electronic-mail address*, telephone number, employer, address of employment and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under this act, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under this act upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under this act, the tribunal shall send a copy of the order to the petitioner ~~only by personal service or registered mail, return receipt requested~~ and the respondent and to the initiating tribunal, if any.

(f) *If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.*

Sec. 21. K.S.A. 2014 Supp. 23-36,306 is hereby amended to read as follows: 23-36,306. If a petition or comparable pleading is received by an inappropriate tribunal of this state, ~~it~~ *the tribunal* shall forward the pleading and accompanying documents to an appropriate tribunal ~~in~~ of this state or another state and notify the petitioner ~~only by personal service or registered mail, return receipt requested~~ *where and* when the pleading was sent.

Sec. 22. K.S.A. 2014 Supp. 23-36,307 is hereby amended to read as follows: 23-36,307. (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this act.

(b) A support enforcement agency *of this state* that is providing services to the petitioner ~~as appropriate~~ shall:

(1) Take all steps necessary to enable an appropriate tribunal ~~in this state or another state~~ *of this state, another state or a foreign country* to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays; *and* legal holidays, ~~and days on which the office of the clerk of the court is not accessible~~, after receipt of ~~a written~~ notice *in a record* from an initiating, responding or registering tribunal, send a copy of the notice ~~only by personal service or registered mail, return receipt requested~~ to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays; *and* legal holidays, ~~and days on which the office of the clerk of the court is not accessible~~, after receipt of ~~a written~~ communication *in a record* from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) *A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:*

(1) *To ensure that the order to be registered is the controlling order;*  
*or*

(2) *if two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.*

(d) *A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign cur-*

rency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(e) A support enforcement agency of this state shall request a tribunal of this state to issue a child support order and an income withholding order that redirects payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to K.S.A. 2014 Supp. 23-36,319, and amendments thereto.

~~(e)~~(f) This act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 23. K.S.A. 2014 Supp. 23-36,308 is hereby amended to read as follows: 23-36,308. (a) If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this act or may provide those services directly to the individual.

(b) *The attorney general may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.*

Sec. 24. K.S.A. 2014 Supp. 23-36,310 is hereby amended to read as follows: 23-36,310. (a) The Kansas department for children and families is the state information agency under this act.

(b) The state information agency shall:

(1) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this act and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of *names and addresses of tribunals and support enforcement agencies received from other states;*

(3) forward to the appropriate tribunal in the ~~place~~ *county* in this state in which the ~~individual~~ obligee *who is an individual* or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this act received from ~~an initiating tribunal or the state information agency of the initiating state~~ *another state or a foreign country;* and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, drivers' licenses and social security.

Sec. 25. K.S.A. 2014 Supp. 23-36,311 is hereby amended to read as

follows: 23-36,311. (a) *In a proceeding under this act*, a petitioner seeking to establish or modify a support order or, to determine parentage ~~in a proceeding under this act of a child or to register and modify a support order of a tribunal of another state or a foreign country must verify the file a petition.~~ Unless otherwise ordered under K.S.A. 2014 Supp. 23-36,312, and amendments thereto ~~(nondisclosure of information in exceptional circumstances)~~, the petition or accompanying documents must provide, so far as known, the name, residential address and social security numbers of the obligor and the obligee *or the parent and alleged parent*, and the name, sex, residential address, social security number and date of birth of each child ~~for whom~~ *whose benefit support is sought or whose parentage is to be determined.* Unless filed at the time of registration, the petition must be accompanied by a ~~certified~~ copy of any support order ~~in effect known to have been issued by another tribunal.~~ The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Sec. 26. K.S.A. 2014 Supp. 23-36,312 is hereby amended to read as follows: 23-36,312. ~~Upon a finding, which may be made ex parte, that the health, safety or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this act.~~ *If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.*

Sec. 27. K.S.A. 2014 Supp. 23-36,313 is hereby amended to read as follows: 23-36,313. (a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal *of this state* may assess against an obligor filing fees, reasonable attorney fees, other costs and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs or expenses against the obligee or the support enforcement agency of either the initiating or the responding state *or foreign country*, except as provided by other law. Attorney fees may be taxed as costs, and may be

ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) The tribunal ~~may~~ *shall* order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. *In a proceeding under part 6, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.*

Sec. 28. K.S.A. 2014 Supp. 23-36,314 is hereby amended to read as follows: 23-36,314. (a) Participation by a petitioner in a proceeding *under this act* before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this act.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this act committed by a party while present in this state to participate in the proceeding.

Sec. 29. K.S.A. 2014 Supp. 23-36,316 is hereby amended to read as follows: 23-36,316. (a) The physical presence of ~~the petitioner~~ *a nonresident party who is an individual* in a ~~responding~~ tribunal of this state is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage *of a child*.

(b) ~~A verified petition, An affidavit or, a document substantially complying with federally mandated forms, and or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under oath penalty of perjury by a party or witness residing in another outside this state.~~

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage *of a child*, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

(e) Documentary evidence transmitted from ~~another outside this state to a tribunal of this state by telephone, telecopies~~ *teletypewriter or other electronic means that do not provide an original-writing record* may not

be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this act, a tribunal of this state ~~may~~ shall permit a party or witness residing ~~in another~~ *outside this* state to be deposed or to testify *under penalty of perjury* by telephone, audiovisual means or other electronic means at a designated tribunal or other location ~~in that state~~. A tribunal of this state shall cooperate with *other* tribunals ~~of other states~~ in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this act.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this act.

(j) *A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.*

Sec. 30. K.S.A. 2014 Supp. 23-36,317 is hereby amended to read as follows: 23-36,317. A tribunal of this state may communicate with a tribunal ~~of another~~ *outside this* state in ~~writing, a record~~ or by telephone, *electronic mail* or other means, to obtain information concerning the laws ~~of that state~~, the legal effect of a judgment, decree or order of that tribunal, and the status of a proceeding ~~in the other state~~. A tribunal of this state may furnish similar information by similar means to a tribunal ~~of another~~ *outside this* state.

Sec. 31. K.S.A. 2014 Supp. 23-36,318 is hereby amended to read as follows: 23-36,318. A tribunal of this state may:

(a) Request a tribunal ~~of another~~ *outside this* state to assist in obtaining discovery; and

(b) upon request, compel a person over ~~whom~~ *which* it has jurisdiction to respond to a discovery order issued by a tribunal ~~of another~~ *outside this* state.

Sec. 32. K.S.A. 2014 Supp. 23-36,319 is hereby amended to read as follows: 23-36,319. (a) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state *or a foreign country* a certified statement by the custodian of the record of the amounts and dates of all payments received.

(b) *If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement*

*agency of this state or another state, the support enforcement agency of this state or a tribunal of this state shall:*

(1) *Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and*

(2) *issue and send to the obligor's employer a conforming income withholding order or an administrative notice of change of payee, reflecting the redirected payments.*

(c) *The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection (b) shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.*

Sec. 33. K.S.A. 2014 Supp. 23-36,401 is hereby amended to read as follows: 23-36,401. (a) If a support order entitled to recognition under this act has not been issued, a responding tribunal of this state *with personal jurisdiction over the parties* may issue a support order if:

(1) The individual seeking the order resides ~~in another~~ *outside this state*; or

(2) the support enforcement agency seeking the order is located ~~in another~~ *outside this state*.

(b) The tribunal may issue a temporary child support order if *the tribunal determines that such an order is appropriate and the individual ordered to pay is:*

~~(1) The respondent has signed a verified statement acknowledging parentage;~~

~~(2) the respondent has been determined by or pursuant to law to be the parent, or~~

~~(3) there is other clear and convincing evidence that the respondent is the child's parent~~

(1) *A presumed father of the child;*

(2) *petitioning to have his paternity adjudicated;*

(3) *identified as the father of the child through genetic testing;*

(4) *an alleged father who has declined to submit to genetic testing;*

(5) *shown by clear and convincing evidence to be the father of the child;*

(6) *an acknowledged father as provided by K.S.A. 2014 Supp. 23-2201 et seq., and amendments thereto;*

(7) *the mother of the child; or*

(8) *an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.*

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to K.S.A.

2014 Supp. 23-36,305, and amendments thereto (~~duties and powers of responding tribunal~~).

New Sec. 34. A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this act or a law or procedure substantially similar to this act.

Sec. 35. K.S.A. 2014 Supp. 23-36,501 is hereby amended to read as follows: 23-36,501. An income withholding order issued in another state may be sent *by or on behalf of the obligee, or by the support enforcement agency*, to the person ~~or entity~~ defined as the obligor's employer under the income withholding act, K.S.A. 2014 Supp. 23-3101 et seq., and amendments thereto, without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

Sec. 36. K.S.A. 2014 Supp. 23-36,502 is hereby amended to read as follows: 23-36,502. (a) Upon receipt of an income withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(c) Except as otherwise provided in subsection (d) and K.S.A. 2014 Supp. 23-36,503, and amendments thereto, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) The duration and amount of periodic payments of current child support, stated as a sum certain;

(2) the person ~~or agency~~ designated to receive payments and the address to which the payments are to be forwarded;

(3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principal place of employment ~~with that employer~~ for withholding from income with respect to:

(1) The employer's fee for processing an income withholding order;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) the times within which the employer must implement the withholding order and forward the child support payment.

Sec. 37. K.S.A. 2014 Supp. 23-36,503 is hereby amended to read as follows: 23-36,503. If an obligor's employer receives ~~multiple two or more~~ income withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the ~~multiple~~ orders if the employer complies with the law of the state of the obligor's principal place of employment ~~with that employer~~ to establish the priorities for withholding and allocating income withheld for ~~multiple two or more~~ child support obligees.

Sec. 38. K.S.A. 2014 Supp. 23-36,504 is hereby amended to read as follows: 23-36,504. An employer ~~who~~ *that* complies with an income withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

Sec. 39. K.S.A. 2014 Supp. 23-36,505 is hereby amended to read as follows: 23-36,505. An employer ~~who~~ *that* willfully fails to comply with an income withholding order issued ~~by~~ *in* another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

Sec. 40. K.S.A. 2014 Supp. 23-36,506 is hereby amended to read as follows: 23-36,506. (a) An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in this state *by registering the order in a tribunal of this state and filing a contest to that order as provided in part 6 of this act, or otherwise contesting the order* in the same manner as if the order had been issued by a tribunal of this state. ~~K.S.A. 2014 Supp. 23-36,604, and amendments thereto (choice of law), applies to the contest.~~

(b) The obligor shall give notice of the contest to:

(1) A support enforcement agency providing services to the obligee;

(2) each employer that has directly received an income withholding order *relating to the obligor*; and

(3) the person ~~or agency~~ designated to receive payments in the income withholding order or, if no person ~~or agency~~ is designated, to the obligee.

Sec. 41. K.S.A. 2014 Supp. 23-36,507 is hereby amended to read as follows: 23-36,507. (a) A party *or support enforcement agency* seeking to enforce a support order or an income withholding order, or both, issued ~~by a tribunal of~~ *in* another state *or a foreign support order* may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this

state to enforce a support order or an income withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this act.

Sec. 42. K.S.A. 2014 Supp. 23-36,601 is hereby amended to read as follows: 23-36,601. A support order or ~~an~~ income withholding order issued ~~by a tribunal of~~ in another state or a foreign support order may be registered in this state for enforcement.

Sec. 43. K.S.A. 2014 Supp. 23-36,602 is hereby amended to read as follows: 23-36,602. (a) *Except as otherwise provided in section 62, and amendments thereto*, a support order or income withholding order of another state or a foreign support order may be registered in this state by sending the following ~~documents and information records~~ to the ~~responding~~ appropriate tribunal in this state:

(1) A letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of ~~all orders~~ the order to be registered, including any modification of ~~an~~ the order;

(3) a sworn statement by the ~~party seeking~~ person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(A) The obligor's address and social security number;

(B) the name and address of the obligor's employer and any other source of income of the obligor; and

(C) a description and the location of property of the obligor in this state not exempt from execution; and

(5) *except as otherwise provided in K.S.A. 2014 Supp. 23-36,312, and amendments thereto*, the name and address of the obligee and, if applicable, the ~~agency or~~ person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as ~~a foreign judgment~~ an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(d) *If two or more orders are in effect, the person requesting registration shall:*

(1) *Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;*

(2) *specify the order alleged to be the controlling order, if any; and*

(3) *specify the amount of consolidated arrears, if any.*

(e) *A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.*

Sec. 44. K.S.A. 2014 Supp. 23-36,603 is hereby amended to read as follows: 23-36,603. (a) A support order or income withholding order issued in another state *or a foreign support order* is registered when the order is filed in the registering tribunal of this state.

(b) A registered *support* order issued in another state *or a foreign country* is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in ~~K.S.A. 2014 Supp. 23-36,602 through 23-36,612~~ *this act*, a tribunal of this state shall recognize and enforce, but may not modify, a registered *support* order if the issuing tribunal had jurisdiction.

Sec. 45. K.S.A. 2014 Supp. 23-36,604 is hereby amended to read as follows: 23-36,604. (a) *Except as otherwise provided in subsection (d), the law of the issuing state or foreign country governs:*

(1) *The nature, extent, amount and duration of current payments and other obligations of support and under a registered support order;*

(2) *the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and*

(3) *the existence and satisfaction of other obligations under the support order.*

(b) In a proceeding for ~~arrearages~~ *arrears under a registered support order*, the statute of limitation ~~under the laws~~ of this state, or of the issuing state *or foreign country*, whichever is longer, applies.

(c) *A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this state.*

(d) *After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.*

Sec. 46. K.S.A. 2014 Supp. 23-36,605 is hereby amended to read as follows: 23-36,605. (a) When a support order or income withholding order issued in another state *or a foreign support order* is registered, the registering tribunal *of this state* shall notify the nonregistering party. ~~Notice shall be only by personal service or registered mail, return receipt requested.~~ The notice must be accompanied by a copy of the registered

order and the documents and relevant information accompanying the order.

(b) ~~The~~ A notice must inform the nonregistering party:

(1) That a registered *support* order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after ~~the date of mailing or personal service of the notice~~ *unless the registered order is under section 63, and amendments thereto*;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages ~~and precludes further contest of that order with respect to any matter that could have been asserted~~; and

(4) of the amount of any alleged arrearages.

(c) *If the registering party asserts that two or more orders are in effect, a notice must also:*

(1) *Identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;*

(2) *notify the nonregistering party of the right to a determination of which is the controlling order;*

(3) *state that the procedures provided in subsection (b) apply to the determination of which is the controlling order; and*

(4) *state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.*

~~(e)~~(d) Upon registration of an income withholding order for enforcement, *the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to the income withholding act, K.S.A. 2014 Supp. 23-3101 et seq., and amendments thereto.*

Sec. 47. K.S.A. 2014 Supp. 23-36,606 is hereby amended to read as follows: 23-36,606. (a) A nonregistering party seeking to contest the validity or enforcement of a registered *support* order in this state shall request a hearing within ~~20 days after the date of mailing or personal service of notice of the registration~~ *the time required by K.S.A. 2014 Supp. 23-36,605, and amendments thereto.* The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to K.S.A. 2014 Supp. 23-36,607, and amendments thereto ~~(contest of registration or enforcement).~~

(b) If the nonregistering party fails to contest the validity or enforce-

ment of the registered *support* order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered *support* order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time and place of the hearing.

Sec. 48. K.S.A. 2014 Supp. 23-36,607 is hereby amended to read as follows: 23-36,607. (a) A party contesting the validity or enforcement of a registered *support* order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) The issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this state to the remedy sought;

(6) full or partial payment has been made; ~~or~~

(7) the statute of limitations under K.S.A. 2014 Supp. 23-36,604, and amendments thereto (~~choice of law~~), precludes enforcement of some or all of the *alleged* arrearages; *or*

(8) *the alleged controlling order is not the controlling order.*

(b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of ~~the a~~ registered *support* order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered *support* order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of ~~the a~~ registered *support* order, the registering tribunal shall issue an order confirming the order.

Sec. 49. K.S.A. 2014 Supp. 23-36,608 is hereby amended to read as follows: 23-36,608. Confirmation of a registered *support* order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Sec. 50. K.S.A. 2014 Supp. 23-36,609 is hereby amended to read as follows: 23-36,609. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in K.S.A. 2014 Supp. 23-36,601 through ~~23-36,604~~ 23-36,608, and amendments thereto, if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

Sec. 51. K.S.A. 2014 Supp. 23-36,610 is hereby amended to read as follows: 23-36,610. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered *support* order may be modified only if the requirements of K.S.A. 2014 Supp. 23-36,611 *or* 23-36,613, and amendments thereto (~~modification of child support order of another state~~), have been met.

Sec. 52. K.S.A. 2014 Supp. 23-36,611 is hereby amended to read as follows: 23-36,611. (a) ~~After~~ *If K.S.A. 2014 Supp. 23-36,613, and amendments thereto, does not apply, upon petition a tribunal of this state may modify* a child support order issued in another state ~~has been~~ *which is* registered in this state, ~~the responding tribunal of this state may modify that order only if K.S.A. 2014 Supp. 23-36,613, and amendments thereto, does not apply and if,~~ after notice and hearing ~~it~~ *the tribunal finds that:*

- (1) The following requirements are met:
  - (A) ~~Neither the child, nor the individual obligee and who is an individual, nor the obligor do not reside~~ *resides* in the issuing state;
  - (B) a petitioner who is a nonresident of this state seeks modification; and
  - (C) the respondent is subject to the personal jurisdiction of the tribunal of this state; or
- (2) ~~this state is the state of residence of the child, or a party who is an individual; is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed written consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this act, the consent otherwise required of an individual residing in this state is not required for the tribunal of this state to assume jurisdiction to modify the child support order.~~

(b) Modification of a registered child support order is subject to the same requirements, procedures and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, *including the duration of the obligation of support*. If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be so recognized under K.S.A. 2014 Supp. 23-36,207, and amendments thereto, establishes the aspects of the support order which are nonmodifiable.

(d) *In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs*

*the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.*

~~(d)~~(e) On the issuance of an order by a tribunal of this state modifying a child support order issued in another state, ~~a~~ the tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(f) *Notwithstanding subsections (a) through (e) and K.S.A. 2014 Supp. 23-36,201(b), and amendments thereto, a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:*

- (1) *One party resides in another state; and*
- (2) *the other party resides outside the United States.*

Sec. 53. K.S.A. 2014 Supp. 23-36,612 is hereby amended to read as follows: 23-36,612. *If a child support order issued by a tribunal of this state shall recognize a modification of its earlier child support order is modified by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to this act and, upon request, except as otherwise provided in this act, shall the uniform interstate family support act, a tribunal of this state:*

(a) *May enforce the its order that was modified only as to amounts arrears and interest accruing before the modification;*

~~(b) enforce only nonmodifiable aspects of that order;~~

~~(c) may provide other appropriate relief only for violations of that its order which occurred before the effective date of the modification; and~~

~~(d)~~(c) *shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.*

Sec. 54. K.S.A. 2014 Supp. 23-36,613 is hereby amended to read as follows: 23-36,613. (a) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of ~~K.S.A. 2014 Supp. 23-3102, 23-3103, 23-36,101, 23-36,102, 23-36,103, 23-36,201 through 23-36,209, 23-36,601 through 23-36,611, and amendments thereto, parts 1 and 2 of this act, this part~~ and the procedural and substantive law of this state to the proceeding for enforcement or modification. ~~K.S.A. 2014 Supp. 23-36,301 et seq., 23-36,401, 23-36,501, 23-36,502, 23-36,701 and 23-36,801, 23-36,802, and amendments thereto, Parts 3, 4, 5, 7 and 8 of this act~~ do not apply.

New Sec. 55. (a) Except as otherwise provided in section 67, and amendments thereto, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the

tribunal whether the consent to modification of a child support order otherwise required of the individual pursuant to K.S.A. 2014 Supp. 23-36,611, and amendments thereto, has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

(b) An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

New Sec. 56. A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the convention may register that order in this state under K.S.A. 2014 Supp. 23-36,601 through 23-36,608, and amendments thereto, if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

Sec. 57. K.S.A. 2014 Supp. 23-36,701 is hereby amended to read as follows: 23-36,701.—(a) ~~A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this act or a law substantially similar to this act, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.~~

~~(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply the Kansas parentage act, K.S.A. 2014 Supp. 23-2201 et seq., and amendments thereto, and the rules of this state on choice of law.~~

*In this part:*

(a) “Application” means a request under the convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(b) “Central authority” means the entity designated by the United States or a foreign country described in K.S.A. 2014 Supp. 23-36,102(e)(4), and amendments thereto, to perform the functions specified in the convention.

(c) “Convention support order” means a support order of a tribunal of a foreign country described in K.S.A. 2014 Supp. 23-36,102(e)(4), and amendments thereto.

(d) “Direct request” means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor or child residing outside the United States.

(e) “Foreign central authority” means the entity designated by a foreign country described in K.S.A. 2014 Supp. 23-36,102(e)(4), and amendments thereto, to perform the functions specified in the convention.

(f) “Foreign support agreement”:

(1) Means an agreement for support in a record that:

- (A) *Is enforceable as a support order in the country of origin;*
- (B) *has been:*
  - (i) *Formally drawn up or registered as an authentic instrument by a foreign tribunal; or*
  - (ii) *authenticated by, or concluded, registered, or filed with a foreign tribunal; and*
- (C) *may be reviewed and modified by a foreign tribunal; and*
- (2) *includes a maintenance arrangement or authentic instrument under the convention.*
- (g) *“United States central authority” means the secretary of the United States department of health and human services.*

New Sec. 58. This part applies only to a support proceeding under the convention. In such a proceeding, if a provision of this part is inconsistent with parts 1 through 6 of this act, this part controls.

New Sec. 59. The department for children and families of this state is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

New Sec. 60. (a) In a support proceeding under this part, the department for children and families of this state shall:

- (1) Transmit and receive applications; and
  - (2) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.
- (b) The following support proceedings are available to an obligee under the convention:
- (1) Recognition or recognition and enforcement of a foreign support order;
  - (2) enforcement of a support order issued or recognized in this state;
  - (3) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;
  - (4) establishment of a support order if recognition of a foreign support order is refused under section 64(b)(2), (4) or (9), and amendments thereto;
  - (5) modification of a support order of a tribunal of this state; and
  - (6) modification of a support order of a tribunal of another state or a foreign country.
- (c) The following support proceedings are available under the convention to an obligor against which there is an existing support order:
- (1) Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;
  - (2) modification of a support order of a tribunal of this state; and
  - (3) modification of a support order of a tribunal of another state or a foreign country.
- (d) A tribunal of this state may not require security, bond or deposit,

however described, to guarantee the payment of costs and expenses in proceedings under the convention.

New Sec. 61. (a) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this state applies.

(b) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, sections 62 through 69, and amendments thereto, apply.

(c) In a direct request for recognition and enforcement of a convention support order or foreign support agreement:

(1) A security, bond or deposit is not required to guarantee the payment of costs and expenses; and

(2) an obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

(d) A petitioner filing a direct request is not entitled to assistance from the department for children and families.

(e) This part does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

New Sec. 62. (a) Except as otherwise provided in this part, a party who is an individual or a support enforcement agency seeking recognition of a convention support order shall register the order in this state as provided in part 6 of this act.

(b) Notwithstanding K.S.A. 2014 Supp. 23-36,311 and 23-36,602(a), and amendments thereto, a request for registration of a convention support order must be accompanied by:

(1) A complete text of the support order;

(2) a record stating that the support order is enforceable in the issuing country;

(3) if the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(4) a record showing the amount of arrears, if any, and the date the amount was calculated;

(5) a record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(6) if necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(c) A request for registration of a convention support order may seek recognition and partial enforcement of the order.

(d) A tribunal of this state may vacate the registration of a convention support order without the filing of a contest under section 63, and amendments thereto, only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(e) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order.

New Sec. 63. (a) Except as otherwise provided in this part, K.S.A. 2014 Supp. 23-36,605 through 23-36,608, and amendments thereto, apply to a contest of a registered convention support order.

(b) A party contesting a registered convention support order shall file a contest not later than 30 days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than 60 days after notice of the registration.

(c) If the nonregistering party fails to contest the registered convention support order by the time specified in subsection (b), the order is enforceable.

(d) A contest of a registered convention support order may be based only on grounds set forth in section 64, and amendments thereto. The contesting party bears the burden of proof.

(e) In a contest of a registered convention support order, a tribunal of this state:

(1) Is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(2) may not review the merits of the order.

(f) A tribunal of this state deciding a contest of a registered convention support order shall promptly notify the parties of its decision.

(g) A challenge or appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

New Sec. 64. (a) Except as otherwise provided in subsection (b), a tribunal of this state shall recognize and enforce a registered convention support order.

(b) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

(1) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(2) the issuing tribunal lacked personal jurisdiction consistent with K.S.A. 2014 Supp. 23-36,201, and amendments thereto;

(3) the order is not enforceable in the issuing country;

(4) the order was obtained by fraud in connection with a matter of procedure;

(5) a record transmitted in accordance with section 62, and amendments thereto, lacks authenticity or integrity;

(6) a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(7) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this act in this state;

(8) payment, to the extent alleged arrears have been paid in whole or in part;

(9) in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(A) If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(B) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(10) the order was made in violation of section 67, and amendments thereto.

(c) If a tribunal of this state does not recognize a convention support order under subsection (b)(2), (4) or (9):

(1) The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order; and

(2) the department for children and families shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 60, and amendments thereto.

New Sec. 65. If a tribunal of this state does not recognize and enforce a convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a convention support order.

New Sec. 66. (a) Except as otherwise provided in subsections (c) and (d), a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

(b) An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

- (1) A complete text of the foreign support agreement; and
- (2) a record stating that the foreign support agreement is enforceable as a decision in the issuing country.

(c) A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(d) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

- (1) Recognition and enforcement of the agreement is manifestly incompatible with public policy;
- (2) the agreement was obtained by fraud or falsification;
- (3) the agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state or a foreign country if the support order is entitled to recognition and enforcement under this act in this state; or
- (4) the record submitted under subsection (b) lacks authenticity or integrity.

(e) A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

New Sec. 67. (a) A tribunal of this state may not modify a convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:

- (1) The obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or
- (2) the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(b) If a tribunal of this state does not modify a convention child support order because the order is not recognized in this state, section 64(c), and amendments thereto, applies.

New Sec. 68. Personal information gathered or transmitted under this part may be used only for the purposes for which it was gathered or transmitted.

New Sec. 69. A record filed with a tribunal of this state under this part must be in the original language and, if not in English, must be accompanied by an English translation.

Sec. 70. K.S.A. 2014 Supp. 23-36,801 is hereby amended to read as follows: 23-36,801. (a) For purposes of K.S.A. 2014 Supp. 23-36,801 and 23-36,802, and amendments thereto, “governor” includes an individual

performing the functions of governor or the executive authority of a state covered by this act.

(b) The governor of this state may:

(1) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand ~~by~~ of the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this act applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Sec. 71. K.S.A. 2014 Supp. 23-36,802 is hereby amended to read as follows: 23-36,802. (a) Before making a demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least 60 days previously the obligee had initiated proceedings for support pursuant to this act or that the proceeding would be of no avail.

(b) If, under this act or a law substantially similar to this act, ~~the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act,~~ the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

Sec. 72. K.S.A. 2014 Supp. 23-36,901 is hereby amended to read as follows: 23-36,901. ~~This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.~~

Sec. 73. K.S.A. 2014 Supp. 23-36,902 is hereby amended to read as follows: 23-36,902. ~~K.S.A. 2014 Supp. 23-36,101 to 23-36,903, and~~

~~amendments thereto, may be cited as the uniform interstate family support act. This act applies to proceedings begun on or after the effective date of this act to establish a support order or determine parentage of a child or to register, recognize, enforce or modify a prior support order, determination or agreement, whenever issued or entered.~~

Sec. 74. K.S.A. 2014 Supp. 23-36,101, 23-36,102, 23-36,103, 23-36,201, 23-36,202, 23-36,203, 23-36,204, 23-36,205, 23-36,206, 23-36,207, 23-36,208, 23-36,209, 23-36,301, 23-36,303, 23-36,304, 23-36,305, 23-36,306, 23-36,307, 23-36,308, 23-36,310, 23-36,311, 23-36,312, 23-36,313, 23-36,314, 23-36,316, 23-36,317, 23-36,318, 23-36,319, 23-36,401, 23-36,501, 23-36,502, 23-36,503, 23-36,504, 23-36,505, 23-36,506, 23-36,507, 23-36,601, 23-36,602, 23-36,603, 23-36,604, 23-36,605, 23-36,606, 23-36,607, 23-36,608, 23-36,609, 23-36,610, 23-36,611, 23-36,612, 23-36,613, 23-36,701, 23-36,801, 23-36,802, 23-36,901 and 23-36,902 are hereby repealed.

Sec. 75. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 19, 2015.

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## CHAPTER 65

### SENATE BILL No. 276

AN ACT concerning corporations and business entities; relating to business filings with the secretary of state; limited liability companies; amending K.S.A. 17-6601, 17-6602, 17-7002, 56-1a152 and 56-1a153 and K.S.A. 2014 Supp. 17-7673, 17-7674, 17-7675, 17-7677, 17-7680, 17-7681, 17-76,128, 17-76,143, 17-76,146, 17-7910, 17-7912, 17-7916, 17-7918, 17-7931, 17-7932, 17-7933, 17-7934 and 17-7937 and repealing the existing sections; also repealing K.S.A. 17-7304, 17-7308 and 56-1a508 and K.S.A. 2014 Supp. 17-7664, 17-7666, 17-7673a, 17-7674a, 17-7676, 17-7677a, 17-7678, 17-7683, 17-76,121, 17-76,121a, 17-76,122, 17-76,123, 17-76,124, 17-76,125, 17-76,127 and 56-1a156.

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

Section 1. K.S.A. 17-6601 is hereby amended to read as follows: 17-6601. (a) Before a corporation has received any payment for any of its stock, it may amend its articles of incorporation at any time or times, in any and as many respects as may be desired, so long as its articles of incorporation, as amended, would contain only such provisions as it would be lawful and proper to insert in an original articles of incorporation filed at the time of filing the amendment.

(b) The amendment of the articles of incorporation authorized by this section shall be adopted by a majority of the incorporators, if directors were not named in the original articles of incorporation or have not yet been elected, or, if directors were named in the original articles of in-

corporation or have been elected and have qualified, by a majority of the directors. A certificate setting forth the amendment and certifying that the corporation has not received any payment for any of its stock and that the amendment has been duly adopted in accordance with the provisions of this section shall be executed and filed in accordance with ~~K.S.A. 17-6003~~ 2014 *Supp.* 17-7910, and amendments thereto. Upon such filing, the corporation's articles of incorporation shall be deemed to be amended accordingly as of the date on which the original articles of incorporation became effective except as to those persons who are substantially and adversely affected by the amendment and as to those persons the amendment shall be effective from the filing date.

Sec. 2. K.S.A. 17-6602 is hereby amended to read as follows: 17-6602.

(a) After a corporation has received payment for any of its capital stock, it may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation, as amended, would contain only such provisions as it would be lawful and proper to insert in an original articles of incorporation filed at the time of the filing of the amendment. If a change in stock or the rights of stockholders, or an exchange, reclassification or cancellation of stock or rights of stockholders is to be made, the amendment to the articles of incorporation shall contain such provisions as may be necessary to effect such change, exchange, reclassification or cancellation. In particular, and without limitation upon such general power of amendment, a corporation may amend its articles of incorporation, from time to time, so as:

- (1) To change its corporate name;
- (2) to change, substitute, enlarge or diminish the nature of its business or its corporate powers and purposes;
- (3) to increase or decrease its authorized capital stock or to reclassify the same, by changing the number, par value, designations, preferences, or relative, participating, optional or other special rights of the shares, or the qualifications, limitations or restrictions of such rights, or by changing shares with par value into shares without par value, or shares without par value into shares with par value either with or without increasing or decreasing the number of shares;
- (4) to cancel or otherwise affect the right of the holders of the shares of any class to receive dividends which have accrued but have not been declared;
- (5) to create new classes of stock having rights and preferences either prior and superior or subordinate and inferior to the stock of any class then authorized, whether issued or unissued; or
- (6) to change the period of its duration. Any or all such changes or alterations may be effected by one certificate of amendment.

(b) Notwithstanding the provisions of subsection (c), the board of directors of a corporation that is registered or intends to register as an

open-end investment company under the investment company act of 1940, 15 U.S.C. § 80a-1 et seq., after the registration takes effect, by resolution, may approve the amendment of the articles of incorporation of the corporation to: (1) Increase or decrease the aggregate number of shares of stock or the number of shares of any class of stock that the corporation has authority to issue; or (2) authorize the issuance of an indefinite number of shares of any such stock, unless a provision has been included in the charter of the corporation after July 1, 1995, prohibiting such action by the board of directors without stockholder approval. A certificate setting forth the amendment and certifying that such amendment has been duly adopted in accordance with the provisions of this section shall be executed and filed, and shall become effective, in accordance with K.S.A. ~~17-6003~~ *2014 Supp. 17-7910*, and amendments thereto. If the board of directors authorizes the issuance of an indefinite number of shares of any class of stock of the corporation pursuant to this subsection, such authorization shall be disclosed wherever the corporation would otherwise be required by law to disclose the total number of authorized shares of any such class of stock of the corporation.

(c) Except as provided in subsection (b), every amendment authorized by subsection (a) shall be made and effected in the following manner:

(1) If the corporation has capital stock, its board of directors shall adopt a resolution setting forth the amendment proposed, declaring its advisability, and either calling a special meeting of the stockholders entitled to vote for the consideration of such amendment or directing that the amendment proposed be considered at the next annual meeting of the stockholders. Such special or annual meeting shall be called and held upon notice in accordance with K.S.A. 17-6512, and amendments thereto. The notice shall set forth such amendment in full or a brief summary of the changes to be effected thereby, as the directors shall deem advisable. At the meeting a vote of the stockholders entitled to vote shall be taken for and against the proposed amendment. If a majority of the outstanding stock entitled to vote, and a majority of the outstanding stock of each class entitled to vote as a class has been voted in favor of the amendment, a certificate setting forth the amendment and certifying that such amendment has been duly adopted in accordance with the provisions of this section shall be executed and filed, and shall become effective, in accordance with K.S.A. ~~17-6003~~ *2014 Supp. 17-7910*, and amendments thereto.

(2) The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote by the provisions of the articles of incorporation, if the amendment would increase or decrease the aggregate number of authorized shares of such class, increase or decrease the par value of the shares of such class, or alter or change the powers, preferences or special rights of the shares of such class so as to affect them adversely. If any proposed amendment

would alter or change the powers, preferences or special rights of one or more series of any class so as to affect them adversely, but does not affect the entire class, then only the shares of the series affected by the amendment shall be considered a separate class for the purposes of this subsection. The number of authorized shares of any such class or classes of stock may be increased or decreased, but not below the number of shares then outstanding, by the affirmative vote of the holders of a majority of the stock of the corporation entitled to vote, if so provided in the original articles of incorporation or in any amendment which created such class or classes of stock or in any amendment which was authorized by a resolution or resolutions adopted by the affirmative vote of the holders of a majority of such class or classes of stock.

(3) If the corporation has no capital stock, then the governing body of the corporation shall adopt a resolution setting forth the amendment proposed and declaring its advisability. If at a subsequent meeting, held not earlier than 15 days and not later than 60 days from the meeting at which such resolution has been passed, a majority of all the members of the governing body shall vote in favor of such amendment, a certificate thereof shall be executed and filed, and shall become effective, in accordance with K.S.A. ~~17-6003~~ 2014 *Supp.* 17-7910, and amendments thereto. The articles of incorporation of any such corporation without capital stock may contain a provision requiring any amendment to be approved by a specified number or percentage of the members or of any specified class of members of such corporation, in which event only one meeting of the governing body thereof shall be necessary, and such proposed amendment shall be submitted to the members or to any specified class of members of such corporation without capital stock in the same manner, so far as applicable, as is provided in this section for an amendment to the articles of incorporation of a stock corporation. In the event of the adoption of such amendment, a certificate evidencing such amendment shall be executed and filed and shall become effective in accordance with K.S.A. ~~17-6003~~ 2014 *Supp.* 17-7910, and amendments thereto.

(4) Whenever the articles of incorporation shall require for action by the board of directors, by the holders of any class or series of shares or by the holders of any other securities having voting power the vote of a greater number or proportion than is required by any section of this act, the provision of the articles of incorporation requiring such greater vote shall not be altered, amended or repealed except by such greater vote.

(d) The resolution authorizing a proposed amendment to the articles of incorporation may provide that at any time prior to the filing of the amendment with the secretary of state, notwithstanding authorization of the proposed amendment by the stockholders of the corporation or by the members of a nonstock corporation, the board of directors or governing body may abandon such proposed amendment without further action by the stockholders or members.

Sec. 3. K.S.A. 17-7002 is hereby amended to read as follows: 17-7002.

(a) Any corporation may procure an extension, renewal or reinstatement of its articles of incorporation, if a domestic corporation, or its authority to engage in business, if a foreign corporation, together with all the rights, franchises, privileges and immunities and subject to all of its duties, debts and liabilities which had been secured or imposed by its original articles of incorporation, and all amendments thereto, or by its authority to engage in business, as the case may be, and may designate a new registered office and resident agent in the following instances:

(1) At any time before the expiration of the time limited for the corporation's existence;

(2) at any time, where the corporation's articles of incorporation, if a domestic corporation, or the authority to engage in business, if a foreign corporation, has become inoperative by law for nonpayment of taxes or fees, or failure to file its annual report;

(3) at any time, where the articles of incorporation of a domestic corporation or the authority to engage in business of a foreign corporation has expired by reason of failure to renew it;

(4) at any time, where the articles of incorporation of a domestic corporation or the authority to engage in business of a foreign corporation has been renewed, but through failure to comply strictly with the provisions of this act, the validity of such renewal has been brought into question; and

(5) at any time, where the articles of incorporation of a domestic corporation or the authority to engage in business of a foreign corporation has been forfeited pursuant to ~~subsection (c) of K.S.A. 17-6206~~ *2014 Supp. 17-7929 or 17-7934*, and amendments thereto.

(b) The extension, renewal or reinstatement of the articles of incorporation or authority to engage in business may be procured by executing and filing a certificate in accordance with ~~K.S.A. 17-6003~~ *2014 Supp. 17-7910*, and amendments thereto.

(c) The certificate required by subsection (b) shall state:

(1) The name of the corporation, which shall be the existing name of the corporation or the name it bore when its articles of incorporation or authority to engage in business expired, except as provided in subsection (e);

(2) if a new registered office and resident agent is designated, the address of the corporation's registered office in this state, which shall include the street, city and zip code and the name of its resident agent at such address;

(3) whether or not the renewal, or reinstatement is to be perpetual and, if not perpetual, the time for which the renewal or reinstatement is to continue; and, in case of renewal before the expiration of the time limited for its existence, the date when the renewal is to commence, which

shall be prior to the date of the expiration of the old articles of incorporation or authority to engage in business which it is desired to renew;

(4) that the corporation desiring to be renewed or reinstated and so renewing or reinstating its corporate existence was duly organized under the laws of the state of its original incorporation;

(5) the date when the articles of incorporation or the authority to engage in business would expire, if such is the case, or such other facts as may show that the articles of incorporation or the authority to engage in business has become inoperative or void or that the validity of any renewal has been brought into question; and

(6) that the certificate for reinstatement is filed by authority of those who were directors or members of the governing body of the corporation at the time its articles of incorporation or the authority to engage in business expired, or who were elected directors or members of the governing body of the corporation as provided in subsection (g).

(d) Upon the filing of the certificate in accordance with ~~K.S.A. 17-6003~~ *2014 Supp. 17-7910*, and amendments thereto, the corporation shall be renewed or reinstated with the same force and effect as if its articles of incorporation had not become inoperative and void or had not expired by limitation. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed within the scope of its articles of incorporation by the corporation, its officers and agents during the time when its articles of incorporation were inoperative or void or after their expiration by limitation, with the same force and effect and to all intents and purposes as if the articles of incorporation had at all times remained in full force and effect. All real and personal property, rights and credits, which belonged to the corporation at the time its articles of incorporation became inoperative or void, or expired by limitation and which were not disposed of prior to the time of its renewal or reinstatement shall be vested in the corporation after its renewal or reinstatement, as fully and amply as they were held by the corporation at and before the time its articles of incorporation became inoperative or void or expired by limitation, and the corporation after its renewal or reinstatement 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 officers and agents prior to its reinstatement, as if its articles of incorporation had remained at all times in full force and effect.

(e) If, since the articles of incorporation became inoperative or void for nonpayment of taxes or fees, or, failure to file annual reports or expired by limitation, any other corporation organized under the laws of this state shall have adopted the same name as the corporation sought to be renewed or reinstated or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be renewed or reinstated, or any foreign corporation ~~qualified~~ *registered* in accordance with ~~K.S.A. 17-7301~~ *2014 Supp. 17-7931*, and amendments thereto, shall

have adopted the same name as the corporation sought to be renewed or reinstated, or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be renewed or reinstated, then in such case the corporation to be renewed or reinstated shall not be renewed under the same name which it bore when its articles of incorporation became inoperative or void or expired, but shall be renewed under some other name; and in such case the certificate to be filed under the provisions of this section shall set forth the name borne by the corporation at the time its articles of incorporation became inoperative or void or expired and the new name under which the corporation is to be renewed or reinstated.

(f) Any corporation seeking to renew or reinstate its articles of incorporation under the provisions of this act shall file all annual reports and pay to the secretary of state an amount equal to all fees and any penalties thereon due. Nonprofit corporations shall file only the annual reports for the three most recent reporting periods, but shall pay all fees due.

(g) If a sufficient number of the last acting officers of any corporation desiring to renew or reinstate its articles of incorporation are not available by reason of death, unknown address or refusal or neglect to act, the directors of the corporation or those remaining on the board, even if only one, may elect successors to such officers. In any case where there shall be no directors of the corporation available for the purposes aforesaid, the stockholders may elect a full board of directors, as provided by the bylaws of the corporation, and the board shall then elect such officers as are provided by law, by the articles of incorporation or by the bylaws to carry on the business and affairs of the corporation. A special meeting of the stockholders for the purpose of electing directors may be called by any officer, director or stockholder upon notice given in accordance with K.S.A. 17-6512, and amendments thereto.

(h) After a reinstatement of the articles of incorporation of the corporation shall have been effected, except where a special meeting of stockholders has been called in accordance with the provisions of subsection (g), the officers who signed the certificate of reinstatement jointly shall call forthwith a special meeting of the stockholders of the corporation upon notice given in accordance with K.S.A. 17-6512, and amendments thereto, and at the special meeting the stockholders shall elect a full board of directors, which board shall then elect such officers as are provided by law, by the articles of incorporation or the bylaws to carry on the business and affairs of the corporation.

(i) Whenever it shall be desired to renew or reinstate the articles of incorporation of any corporation not for profit and having no capital stock, the governing body shall perform all the acts necessary for the renewal or reinstatement of the articles of incorporation of the corporation which are performed by the board of directors in the case of a corporation having capital stock. The members of any corporation not for profit and having

no capital stock who are entitled to vote for the election of members of its governing body shall perform all the acts necessary for the renewal or reinstatement of the articles of the corporation which are performed by the stockholders in the case of a corporation having capital stock. In all other respects, the procedure for the renewal or reinstatement of the articles of incorporation of a corporation not for profit and having no capital stock shall conform, as nearly as may be applicable, to the procedure prescribed in this section for the renewal or reinstatement of the articles of incorporation of a corporation having capital stock.

Sec. 4. K.S.A. 2014 Supp. 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 *required to be maintained by K.S.A. 2014 Supp. 17-7924, and amendments thereto*, and the name ~~and address~~ of the resident agent for service of process *required to be maintained by K.S.A. ~~17-7666~~ 2014 Supp. 17-7925, and amendments thereto*;
- (3) any other matters the members determine to include therein;
- (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 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 effective time of such filing or at such other time or date as provided in or reflected by the operating agreement.

(d) *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.*

(e) *Upon filing the articles of organization of a limited liability com-*

*pany 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. 5. K.S.A. 2014 Supp. 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 articles of organization may be amended as provided in a certificate of amendment or judicial decree of amendment upon 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 or judicial decree. The certificate of amendment or judicial decree 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, 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. 6. K.S.A. 2014 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 or K.S.A. 2014 Supp. 17-7926(b) or 17-7929(b),~~ 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:

- (1) The name of the limited liability company;

- (2) the reason for filing the certificate of cancellation;
- (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
- (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 liability 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~~ 2014 Supp. 17-7912, 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. 7. K.S.A. 2014 Supp. 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 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 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. 8. K.S.A. 2014 Supp. 17-7680 is hereby amended to read as follows: 17-7680. (a) A limited liability company may, whenever desired, 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 K.S.A. 17-7673 through 17-7683, and amendments thereto, *and the business entity standard treatment act, K.S.A. 2014 Supp. 17-7901 et seq., 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 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 K.S.A. 17-7673 through 17-7683, and amendments thereto, *and the business entity standard treatment act, K.S.A. 2014 Supp. 17-7901 et seq., 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 *with the secretary of state* as provided in K.S.A. ~~17-7678~~ *2014 Supp. 17-7910*, and amendments thereto, ~~with the secretary of state~~. If 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~~ *2014 Supp. 17-7910*, and amendments thereto, ~~with the secretary of state~~.

(c) Restated articles of organization 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 of organization shall also state that they were duly executed and are being filed in accordance with this section. If restated articles of organization only restate and integrate and do not further amend a limited liability company’s articles of organization as previously amended or supplemented and there is no discrepancy between those provisions and the restated articles of organization, they shall state that fact as well.

(d) Upon the filing of 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 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 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 effect such amendment or change.

Sec. 9. K.S.A. 2014 Supp. 17-7681 is hereby amended to read as follows: 17-7681. (a) Pursuant to an agreement of merger or consolidation, one or more domestic limited liability companies may merge or consolidate with or into one or more limited liability companies formed under the laws of 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 operating agreement, 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 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;

(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 with the secretary of state;

(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;

(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

(8) if the surviving or resulting limited liability company is not a domestic limited liability company, a statement that such surviving 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.~~

~~(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 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)~~(d) 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 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)~~(e) 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 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.

~~(e)~~(f) 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. 2014 Supp. 17-78-101 et seq., and amendments thereto.

~~(h)~~(g) 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. 10. K.S.A. 2014 Supp. 17-76,128 is hereby amended to read as follows: 17-76,128. ~~Subsection (d) of K.S.A. 17-7676~~ 2014 Supp. 17-7909(b), and amendments thereto, shall be applicable to foreign limited liability companies as if they were domestic limited liability companies.

Sec. 11. K.S.A. 2014 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~~ *2014 Supp. 17-7933*, 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~~ *2014 Supp. 17-7933*, 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 designation 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 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 limita-

tion 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~~ 2014 Supp. 17-7931, 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.

Sec. 12. K.S.A. 2014 Supp. 17-76,146 is hereby amended to read as follows: 17-76,146. (a) A domestic limited liability company whose articles of organization or a foreign limited liability company whose authority to do business has been canceled *or forfeited* pursuant to ~~subsection (d) or (e) of K.S.A. 17-7666 or subsection (e) of 17-76,123~~ K.S.A. 2014 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), 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(d)~~, 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(d)~~, and amendments thereto, and payment of the annual report fees due under ~~subsection (c) of K.S.A. 17-76,139(c)~~, 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~~ K.S.A. 2014 Supp. 17-7935, 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 amendments thereto, subsection (c) of K.S.A. 17-76,123, and amendments thereto, or subsection (d) of K.S.A. 17-76,139(d) or K.S.A. 2014 Supp. 17-7926(b), 17-7929(b) or 17-7934(f)~~, 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 (c) of K.S.A. 17-76,123, and amendments thereto, or subsection (d) of K.S.A. 17-76,139(d) or K.S.A. 2014 Supp. 17-7926(b), 17-7929(b) or 17-7934(f)~~, 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(d) or K.S.A. 2014 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), 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(d) or K.S.A. 2014 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), 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(d) or K.S.A. 2014 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), 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. 13. K.S.A. 2014 Supp. 17-7910 is hereby amended to read as follows: 17-7910. When any document is required by this act to be filed with the secretary of state, such requirement means that:

(a) The original signed document shall be delivered to the office of the secretary of state, where the document shall be recorded in an electronic medium. Any signature on documents authorized to be filed with the secretary of state under the provisions of this act may be a facsimile, a conformed signature or an electronically transmitted signature;

(b) all taxes and fees authorized by law to be collected by the secretary of state in connection with the filing of the document shall be tendered to the secretary of state;

(c) upon delivery of the document, and upon tender of the required taxes and fees, the secretary of state shall, *if the secretary of state finds that the document conforms to law*, certify that the document has been filed in the office of the secretary of state by endorsing upon the electronically-recorded document the word "Filed" and the date and hour of its filing. This endorsement is the "filing date" of the document and is conclusive of the date and time of its filing in the absence of actual fraud. The secretary of state shall thereupon record the endorsed document in

an electronic medium and that electronic document shall become the original document; and

(d) the secretary of state shall return a certified copy of the recorded document to the person who filed the document or that person's representative, except this provision shall not apply to annual reports.

(e) ~~This section shall take effect on and after January 1, 2015.~~ *A person who executes any document required by this act to be filed with the secretary of state, including a person who executes such document as an agent or fiduciary, shall not be required to exhibit evidence of the person's authority as a prerequisite to filing such documents with the secretary of state.*

Sec. 14. K.S.A. 2014 Supp. 17-7912 is hereby amended to read as follows: 17-7912. (a) When any document that is required by this act to be filed with the secretary of state has been so filed and is an inaccurate record of the covered entity action therein referred to, or was defectively or erroneously executed, such document may be corrected by filing with the secretary of state a certificate of correction of such document which shall be executed and filed in accordance with this act. The certificate of correction shall specify the inaccuracy or defect to be corrected and shall set forth the portion of the document in corrected form. In lieu of filing a certificate of correction, the document may be corrected by filing with the secretary of state a corrected document which shall be executed and filed in accordance with this act. A fee equal to the fee payable to the secretary of state if the document being corrected were then being filed shall be paid and collected by the secretary of state. The corrected document shall be specifically designated as such in its heading, shall specify the inaccuracy or defect to be corrected, and shall set forth the entire document in corrected form. A document corrected in accordance with this section shall be effective as of the date the original document was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons, the corrected document shall be effective from the filing date.

~~This section shall take effect on and after January 1, 2015.~~

(b) *The secretary of state may correct the secretary's own errors on the secretary's own motion.*

Sec. 15. K.S.A. 2014 Supp. 17-7916 is hereby amended to read as follows: 17-7916. (a) *Unless otherwise provided in a covered entity's public organic document or organic rules, any person may sign any document filed with the secretary of state pursuant to this act by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission of a general partner must describe the admission. Powers of attorney relating to the signing of a document by an attorney-in-fact need not be filed in the office of the secretary of state but must be retained by the covered entity.*

~~This section shall take effect on and after January 1, 2015.~~

(b) *For all purposes of the laws of the state of Kansas, a power of attorney with respect to matters relating to the formation, internal affairs or termination of a covered entity or granted by a person as a member, incorporator, partner or limited partner of a covered entity, or by an assignee of an interest in a covered entity or by a person seeking to become a member, incorporator, partner, limited partner or an assignee of an interest in a covered entity shall be irrevocable if the power of attorney 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 the 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 covered entity or granted by a person as a member or an assignee of an interest in a covered entity or by a person seeking to become a member, incorporator, partner or limited partner or an assignee of an interest in a covered entity and, in either case, granted to the covered entity, 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.*

Sec. 16. K.S.A. 2014 Supp. 17-7918 is hereby amended to read as follows: 17-7918. (a) Except as otherwise provided in subsection (b), the names of all covered entities must be distinguishable on the records of the office of the secretary of state from:

- (1) The name of any other covered entity *or foreign covered entity*;
- (2) the name of any non-covered entity, other than a general partnership, that has filed with the office of the secretary of state; ~~and~~
- (3) any entity name reserved pursuant to K.S.A. 2014 Supp. 17-7923, and amendments thereto; *and*
- (4) *the name of any other covered entity or foreign covered entity whose public organic documents or foreign registration has been canceled or forfeited for any reason within the previous one year.*

(b) A covered entity may register under any name that is not distinguishable on the records of the office of the secretary of state from the name of any other covered entity or non-covered entity that has filed with the office of the secretary of state with the written consent of the other entity, which written consent shall be filed with the secretary of state.

(c) A covered entity may use a name that is not distinguishable from a name described in subsection (a)(1) through (3) if the entity delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the entity to use the name in this state.

~~(d) This section shall take effect on and after January 1, 2015.~~

Sec. 17. K.S.A. 2014 Supp. 17-7931 is hereby amended to read as follows: 17-7931. ~~(a)~~ Before doing business in the state of Kansas, a foreign covered entity shall register with the secretary of state. In order to register, a foreign covered entity shall submit to the secretary of state, together with payment of a fee if authorized by law, as provided by K.S.A. 2014 Supp. 17-7910, and amendments thereto, an original copy executed by a governor, of an application for registration as a foreign covered entity, setting forth:

- ~~(1)~~(a) The name of the foreign covered entity;
- ~~(2)~~(b) the state or other jurisdiction or country where organized;
- ~~(3)~~(c) the date of its organization;
- ~~(4)~~(d) a statement issued by an appropriate authority in that jurisdiction within 90 days of the date of application by the proper officer of the jurisdiction where such foreign entity is organized, or by a third-party agent authorized by the secretary of state such proper officer, that the foreign covered entity exists in good standing under the laws of the jurisdiction of its organization;
- ~~(5)~~(e) the nature of the business or purposes to be conducted or promoted in the state of Kansas, including whether the covered entity operates for-profit or not-for-profit;
- ~~(6)~~(f) 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;
- ~~(7)~~(g) an irrevocable written consent of the foreign covered entity 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 governors of the foreign covered entity;
- ~~(8)~~(h) the name and business, residence or mailing address of each of the governors; and
- ~~(9)~~(i) the date on which the foreign covered entity first did, or intends to do, business in the state of Kansas.

~~(b) A person shall not be deemed to be doing business in the state of Kansas solely by reason of being a member or governor of a domestic covered entity or a foreign covered entity.~~

~~(c) This section shall take effect on and after January 1, 2015.~~

Sec. 18. K.S.A. 2014 Supp. 17-7932 is hereby amended to read as follows: 17-7932. (a) Activities of a foreign covered entity which do not constitute doing business within the meaning of K.S.A. 2014 Supp. 17-7931, and amendments thereto, include:

- (1) Maintaining, defending or settling an action or proceeding;

(2) holding meetings or carrying on any other activity concerning its internal affairs;

(3) maintaining bank accounts;

(4) maintaining offices or agencies for the transfer, exchange or registration of the covered entity'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;

(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;

(9) securing or collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting and maintaining property so acquired;

(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

(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.~~

~~(c)~~—A person shall not be deemed to be doing business in the state of Kansas solely by reason of being a member, stockholder, limited partner or governor of a domestic covered entity or a foreign covered entity.

~~(d)~~—(c) This section does not apply in determining ~~the contacts or activities that may subject~~ *whether* a foreign covered entity *is subject* to service of process, taxation or regulation under any other law of this state.

~~(e)~~—This section shall take effect on and after January 1, 2015.

Sec. 19. K.S.A. 2014 Supp. 17-7933 is hereby amended to read as follows: 17-7933. ~~The secretary of state shall not issue a registration to a foreign covered entity unless the name of such covered entity is such as to distinguish it upon the records of the office of the secretary of state from the names of limited liability companies, corporations, limited partnerships or limited liability partnerships organized under the laws of this state or reserved or registered as a foreign limited liability company, for-~~

~~eign corporation, foreign limited partnership or foreign limited liability partnership under the laws of this state, except that a foreign covered entity 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, limited partnerships or limited liability partnerships organized under the laws of this state or reserved or registered as a foreign limited liability company, foreign corporation, foreign limited partnership or foreign limited liability partnership under the laws of this state if:~~

~~(a) Written consent is obtained from the other domestic or foreign limited liability company, corporation, limited partnership or foreign limited liability partnership and filed with the secretary of state, or~~

~~(b)—(a) Except as otherwise provided in subsection (b), the names of all foreign covered entities must be distinguishable on the records of the office of the secretary of state from:~~

- ~~(1) The name of any covered entity or foreign covered entity;~~
- ~~(2) the name of any non-covered entity, other than a general partnership, that has filed with the secretary of state;~~
- ~~(3) any entity name reserved pursuant to K.S.A. 2014 Supp. 17-7923, and amendments thereto; and~~
- ~~(4) the name of any other covered entity or foreign covered entity whose public organic document or foreign registration has been canceled or forfeited for any reason within the previous one year.~~

~~(b) A foreign covered entity may register under any name that is not distinguishable on the records of the office of the secretary of state from the name of any other covered entity or non-covered entity that has filed with the office of the secretary of state:~~

- ~~(1) With the written consent of the other entity, which written consent shall be filed with the secretary of state; or~~
- ~~(2) if the foreign covered entity indicates, as a means of identification and in its advertising within this state, the state in which the foreign covered entity was formed, and the application sets forth this condition.~~

~~(c) This section shall take effect on and after January 1, 2015.~~

Sec. 20. K.S.A. 2014 Supp. 17-7934 is hereby amended to read as follows: 17-7934. (a) Each foreign covered entity 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 covered entity, which agent may be the foreign covered entity itself, 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 covered entity's registered office.

(b) A resident agent may change the address of the registered office of the foreign covered entity for which the resident agent is resident agent to another address in the state of Kansas by:

(1) Paying a fee if authorized by law, as provided by K.S.A. 2014 Supp. 17-7910, and amendments thereto;

(2) filing with the secretary of state a certificate executed by the resident agent, setting forth the names of all the foreign covered entities represented by the resident agent and the address at which the resident agent has maintained the registered office for each of such foreign covered entity; 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 covered entities 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 covered entities recited in the certificate shall be located at the new address of the resident agent of the entity given in the certificate. Filing of the certificate shall be considered an amendment of the application of each foreign covered entity affected by the certificate, and the foreign covered entity 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 covered entity affected thereby.

(c) *In the event of a change of name of any person acting as resident agent for a foreign covered entity in this state, such resident agent shall pay a fee if authorized by law, as provided by K.S.A. 2014 Supp. 17-7910, and amendments thereto, and 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 foreign covered entities represented by such resident agent, and the address at which such resident agent has maintained the registered office for each of such foreign covered entities.*

(d) *In the event of both a change of name of any person acting as resident agent for any foreign covered entity and a change of address, such resident agent shall pay a fee if authorized by law, as provided by K.S.A. 2014 Supp. 17-7910, and amendments thereto, and 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 foreign covered entities represented by such resident agent and the address at which such resident agent has maintained the registered office for each such foreign covered*

*entity, 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 foreign covered entities recited in the certificate. Upon the filing of such certificate, and thereafter, or until further change of address or change of name, as authorized by law, the registered office in this state of each of the foreign covered entities recited in the certificate shall be located at the new address of the resident agent as given in the certificate and the change of name shall be effective.*

(e) The resident agent of one or more foreign covered entities may resign and appoint a successor resident agent by paying a fee if authorized by law, as provided by K.S.A. 2014 Supp. 17-7910, and amendments thereto, and filing a certificate with the secretary of state, stating that the resident agent resigns as resident agent for the foreign covered entity 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 covered entity ratifying and approving the change of resident agent. Upon the filing, the successor resident agent shall become the resident agent of those foreign covered entities 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 covered entities' 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 covered entity affected by the certificate, and the foreign covered entity shall not be required to take any further action with respect thereto, to amend its application.

~~(d)~~(f) The resident agent of one or more foreign covered entities may resign without appointing a successor resident agent by paying a fee if authorized by law, as provided by K.S.A. 2014 Supp. 17-7910, and amendments thereto, and filing a certificate with the secretary of state stating that the resident agent resigns as resident agent for the foreign covered entities 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 of the resignation of the resident agent was sent by certified or registered mail to each foreign covered entity for which the resident agent is resigning as resident agent. The affidavit shall state that the notice was sent to the principal office of each of the foreign covered entities within or outside the state of Kansas, if known to the resident agent or, if not, to the last known address of the individual at whose request the resident agent was appointed for the foreign covered entity. After receipt of the notice of the resignation of its resident agent, the foreign covered entity 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 covered entity 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 covered entity shall not be permitted to do business in the state of Kansas and its registration shall be considered forfeited.

~~(c) This section shall take effect on and after January 1, 2015.~~

Sec. 21. K.S.A. 2014 Supp. 17-7937 is hereby amended to read as follows: 17-7937. *The district court shall have jurisdiction to enjoin any foreign covered entity, or any agent of a foreign covered entity, from doing any business in the state of Kansas if the foreign covered entity has failed to register under this act or if such foreign covered entity has secured a certificate from the secretary of state under K.S.A. 2014 Supp. 17-7910 and 17-7931, 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, may maintain an action to restrain a foreign limited liability partnership covered entity from transacting business in this state in violation of the provisions of this act.*

~~This section shall take effect on and after January 1, 2015.~~

Sec. 22. K.S.A. 56-1a152 is hereby amended to read as follows: 56-1a152. ~~(a) A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the secretary of state. The certificate of limited partnership may 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 in the office of the secretary of state or upon the future effective date specified in the certificate of amendment or judicial decree of amendment. The certificate of amendment or judicial decree of amendment shall set forth:~~

- (1) The name of the limited partnership; and
- (2) the amendment to the certificate.

(b) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any matter described has changed, making the certificate inaccurate in any material respect, shall promptly amend the certificate.

(c) Notwithstanding the requirements of subsection (b), no later than 30 days after the happening of any of the following events an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed by a general partner:

- (1) The admission of a new general partner;
- (2) the withdrawal of a general partner;
- (3) the continuation of the partnership under K.S.A. 56-1a451, and amendments thereto, after the withdrawal of a general partner; or
- (4) a change in the name of the limited partnership, the address of the registered office or the name or address of the resident agent.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose determined by the general partners.

(e) Unless otherwise provided in this act or in the certificate of amendment, a certificate of amendment shall be effective at the time of its filing with the secretary of state.

Sec. 23. K.S.A. 56-1a153 is hereby amended to read as follows: 56-1a153. A certificate of limited partnership shall be canceled upon the dissolution and the commencement of winding up the affairs of the partnership, at any other time when there are no limited partners or as specified in this act. *The certificate of limited partnership is canceled upon the filing of a certificate of cancellation or a judicial decree of cancellation in the office of the secretary of state or upon the future effective date specified in the certificate of cancellation or a judicial decree of cancellation or as specified in this act.* A certificate of cancellation or judicial decree of cancellation shall be filed in the office of the secretary of state and set forth:

- ~~(1)~~(a) The name of the limited partnership;
- ~~(2)~~(b) the date of filing of its certificate of limited partnership;
- ~~(3)~~(c) the reason for filing the certificate of cancellation;
- ~~(4)~~(d) the future effective date of cancellation, which shall be a date certain, if it is not to be effective upon the filing of the certificate; and
- ~~(5)~~(e) any other information the general partners determine proper.

Sec. 24. K.S.A. 17-6601, 17-6602, 17-7002, 17-7304, 17-7308, 56-1a152, 56-1a153 and 56-1a508 and K.S.A. 2014 Supp. 17-7664, 17-7666, 17-7673, 17-7673a, 17-7674, 17-7674a, 17-7675, 17-7676, 17-7677, 17-7677a, 17-7678, 17-7680, 17-7681, 17-7683, 17-76,121, 17-76,121a, 17-76,122, 17-76,123, 17-76,124, 17-76,125, 17-76,127, 17-76,128, 17-76,143, 17-76,146, 17-7910, 17-7912, 17-7916, 17-7918, 17-7931, 17-7932, 17-7933, 17-7934, 17-7937 and 56-1a156 are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 19, 2015.

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## CHAPTER 66

### SENATE BILL No. 290

AN ACT concerning the Kansas code of military justice; relating to commanding officer's nonjudicial punishment; amending K.S.A. 48-2301 and repealing the existing section.

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

Section 1. K.S.A. 48-2301 is hereby amended to read as follows: 48-2301. ~~(a) Under such regulations as the governor may prescribe, any commanding officer may, in addition to or in lieu of admonition or reprimand,~~

~~impose one of the following disciplinary punishments for minor offenses without the intervention of a court-martial:~~

~~(1) Upon an officer of the commanding officer's command:~~

~~(A) Withholding of privileges for not more than two consecutive weeks;~~

~~(B) restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks; or~~

~~(C) if imposed by the governor, the adjutant general, or the commanding general of a brigade, or the commanding officer of a separate group or battalion, a fine or forfeiture of pay and allowances of not more than \$125;~~

~~(2) upon other military personnel of the commanding officer's command:~~

~~(A) Withholding of privileges for not more than two consecutive weeks;~~

~~(B) restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks;~~

~~(C) extra duties for not more than 14 days, which need not be consecutive, and for not more than two hours per day, holidays included;~~

~~(D) reduction to next inferior grade if the grade from which demoted is within the promotion authority of the officer imposing the reduction of any officer subordinate to the one who imposes the reduction;~~

~~(E) if imposed by an officer of the grade of major or above: (i) The punishment authorized pursuant to subsection (a)(2)(A) through (a)(2)(D) above; or (ii) a fine or forfeiture of pay of not more than \$50.~~

~~(b) The governor may, by regulation, place limitations on the powers granted by this section with respect to the kind and amount of punishment authorized and the categories of commanding officers authorized to exercise those powers.~~

~~(c) An officer in charge may impose on enlisted members assigned to the unit or element of which the officer is in charge the punishments authorized pursuant to subsections (a)(2)(A) through (a)(2)(D).~~

~~(d) The officer who imposes the punishment authorized in subsection (b), or such officer's successor in command, may at any time suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (b), whether or not executed. In addition such officer may at any time remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges and property affected. Such officer may also mitigate reduction in grade to a fine or forfeiture of pay. When mitigating extra duties to restriction the mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating reduction in grade to fine or forfeiture of pay, the amount of the fine or forfeiture shall not be greater~~

than the amount that could have been imposed initially under this article by the officer who imposed the punishment mitigated.

(e) Except where punishment has been imposed by the governor, a person punished under this section who considers his or her punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (d) by the officer who imposes the punishment.

(f) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(g) Whenever a punishment of forfeiture of pay is imposed under this section, the forfeiture may apply to pay accruing on or after the date that punishment is imposed and to any pay accrued before that date.

(h) Any punishment authorized by this section which is measured in terms of days shall, when served in a status other than annual field training, be construed to mean regularly scheduled inactive duty training days.

(i) Prior to being informed of the disciplinary action to be taken under this section, the person to be punished shall have the right to demand a trial by court-martial for the offense. Punishment may not be imposed upon any member of the state military force under this section if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment.

(a) (1) *Under such regulations as the governor may prescribe, any commanding officer may impose disciplinary punishments for minor offenses without the intervention of a court-martial pursuant to this article. For purposes of this article, commanding officer shall include officers-in-charge.*

(2) *The governor, the adjutant general or an officer of a general or flag rank in command may delegate the powers under this article to a principal assistant who is a member of the state military forces.*

(b) *Any commanding officer may impose upon enlisted members of the officer's command:*

(1) *An admonition;*

(2) *a reprimand;*

(3) *the withholding of privileges for not more than six months, which need not be consecutive;*

(4) *the forfeiture of not more than seven days' pay;*

- (5) a fine of not more than seven days' pay;
  - (6) a reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;
  - (7) extra duties, including fatigue or other duties, for not more than 14 days, which need not be consecutive; and
  - (8) restriction to certain specified limits, with or without suspension from duty, for not more than 14 days, which need not be consecutive.
- (c) Any commanding officer of the grade of O-4, or above, may impose upon enlisted members of the officer's command:
- (1) Any punishment authorized in subsections (b)(1), (2) and (3);
  - (2) the forfeiture of not more than 1/2 of one month's pay per month for two months;
  - (3) a fine of not more than one month's pay;
  - (4) a reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;
  - (5) extra duties, including fatigue or other duties, for not more than 45 days, which need not be consecutive; and
  - (6) restriction to certain specified limits, with or without suspension from duty, for not more than 60 days, which need not be consecutive.
- (d) The governor, the adjutant general, an officer exercising general court-martial convening authority or an officer of a general or flag rank in command may impose:
- (1) Upon officers of the officer's command, any punishment authorized in subsections (c)(1), (2), (3) and (6) and arrest in quarters for not more than 30 days, which need not be consecutive; and
  - (2) upon enlisted members of the officer's command, any punishment authorized in subsection (c).
- (e) Whenever any of those punishments are combined to run consecutively, the total length of the combined punishment cannot exceed the authorized duration of the longest punishment in the combination, and there must be an apportionment of punishments so that no single punishment in the combination exceeds its authorized length under this article.
- (f) Prior to the offer of non-judicial punishment, the commanding officer shall determine whether arrest in quarters or restriction shall be considered as punishments. If the commanding officer determines that the punishment options may include arrest in quarters or restriction, the accused shall be notified of the right to demand trial by court-martial. If the commanding officer determines that the punishment options will not include arrest in quarters or restriction, the accused shall be notified that there is no right to trial by court-martial in lieu of non-judicial punishment.

(g) *The officer who imposes the punishment, or the successor in command, may, at any time, suspend, set aside, mitigate or remit any part or amount of the punishment and restore all rights, privileges and property affected. The officer also may mitigate punishments as follows: (1) Reduction in grade to forfeiture of pay; (2) arrest in quarters to restriction; or (3) extra duties to restriction. The mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture shall not be greater than the amount that could have been imposed initially under this article by the officer who imposed the punishment mitigated.*

(h) *A person punished under this article who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority within 15 days after the punishment is either announced or sent to the accused, as the commander may determine. The appeal shall be promptly forwarded and decided, but the punishment shall be stayed until final action is taken on the appeal. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (g) by the officer who imposed the punishment. Before acting on an appeal from a punishment, the authority that is to act on the appeal will refer the case to a judge advocate for consideration and advice.*

(i) *The imposition and enforcement of disciplinary punishment under this article for any act or omission is not a bar to trial by court-martial or a civilian court of competent jurisdiction for a serious crime or offense growing out of the same act or omission and not properly punishable under this article; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial and, when so shown, it shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.*

(j) *Whenever a punishment of forfeiture of pay is imposed under this article, the forfeiture may apply to pay accruing before, on or after the date that punishment is imposed.*

(k) *Regulations may prescribe the form of records to be kept of proceedings under this article and may prescribe that certain categories of those proceedings shall be in writing.*

Sec. 2. K.S.A. 48-2301 is hereby repealed.

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

## CHAPTER 67

Substitute for SENATE BILL No. 38°

AN ACT concerning patent infringement; relating to bad faith assertions of patent infringement; Kansas consumer protection act.

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

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

(1) “Person” means an individual, corporation, limited liability company, general partnership, limited partnership, firm, company, voluntary association and other association or business entity existing under or authorized by the state of Kansas, or the laws of any other state, territory or foreign country.

(2) “Affiliated person” means a person affiliated with the intended recipient of a written or electronic communication.

(3) “Intended recipient” means a person who purchases, rents, leases or otherwise obtains a product or service in the commercial market that is not for resale in the commercial market and that is, or later becomes, the subject of a patent infringement allegation.

(b) It is an unconscionable act or practice for any person to make a bad faith assertion of patent infringement whereby the person sends or causes to be sent any electronic or written communication that states that the intended recipient or affiliated person is infringing or has infringed on a patent if:

(1) The communication asserting or claiming patent infringement does not contain the following information and, upon the request of the intended recipient or affiliated person, the person fails to provide that information within a reasonable period of time:

(A) The name of the person asserting or claiming a right to license the patent to or enforce the patent against the intended recipient or affiliated person;

(B) the number of the patent issued by the United States patent and trademark office that is alleged or claimed to have been infringed; and

(C) the factual allegations concerning the specific areas in which the intended recipient or affiliated person’s products, services or technology infringed the patent or are covered by the claims in the patent;

(2) prior to sending the communication, the person asserting or claiming patent infringement:

(A) Fails to compare the scope of the patent to the intended recipient or affiliated person’s products, services or technology, to the extent commercially reasonable and identifiable from public information; or

(B) performs such comparison, but fails to identify in the communication the specific areas in which the intended recipient or affiliated person’s products, services or technology are within the scope of the patent;

(3) the communication falsely states that litigation has been filed against the intended recipient or affiliated person; or

(4) the assertions or claims contained in the communication lack a reasonable basis because the demand letter seeks compensation:

(A) For a patent that has been held to be invalid or unenforceable in a final judicial or administrative decision; or

(B) regarding actions alleged to have been undertaken after the patent has expired.

(c) Nothing in this section shall be construed to be an unconscionable act or practice where any person:

(1) Has made a substantial investment in the use of the patent or in the production or sale of a product or item covered by the patent;

(2) has engaged in a good faith effort to establish that the intended recipient or affiliated person has infringed the patent;

(3) has, as the owner of the patent and in good faith, sought compensation or other remedy from the intended recipient or affiliated person by reason of infringement of its patent;

(4) is an inventor or joint inventor of the patent or, in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventor, is the original assignee;

(5) has demonstrated good faith business practices in previous efforts to enforce the patent or a substantially similar patent;

(6) has successfully enforced the patent or a substantially similar patent through litigation; or

(7) has, as the owner of a patent and in good faith, communicated to any person that its patent is available for license or sale.

(d) (1) The conduct prohibited by this section constitutes an unconscionable act or practice in violation of K.S.A. 50-627, and amendments thereto, and any person who engages in such conduct shall be subject to the remedies and penalties provided by the Kansas consumer protection act and the investigatory and enforcement procedures and policies of the attorney general's office adopted pursuant to the Kansas consumer protection act.

(2) For the purposes of the remedies and penalties provided by the Kansas consumer protection act:

(A) The person committing the conduct prohibited by this section shall be deemed the supplier, and the intended recipient or affiliated person who is the victim of such conduct shall be deemed the consumer; and

(B) proof of a consumer transaction shall not be required.

(3) Notwithstanding any provision of the Kansas consumer protection act to the contrary, a county or district attorney shall not have authority to file any civil action alleging a violation of the Kansas consumer protection act pursuant to this section.

(e) Nothing in this section shall apply to an assertion of patent in-

fringement that includes a claim for relief arising under 35 U.S.C. § 271(e)(2) or 42 U.S.C. § 262.

(f) This section shall be part of and supplemental to the Kansas consumer protection act.

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

Approved May 20, 2015.

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## CHAPTER 68

### HOUSE BILL No. 2256

AN ACT concerning public bodies or agencies; relating to the state of Kansas and local units of government; providing certain powers to the attorney general for investigation of violations of the open records act and the open meetings act; attorney general's open government fund; amending K.S.A. 45-223, 45-228 and 75-4320a and K.S.A. 2014 Supp. 45-221, 45-222, 75-4317a, 75-4318, 75-4319, 75-4320 and 75-4320b and repealing the existing sections.

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

New Section 1. (a) The attorney general may determine by a preponderance of the evidence after an investigation that a public agency has violated K.S.A. 45-215 et seq., and amendments thereto, and may, at any time prior to the filing of an action pursuant to K.S.A. 45-222, and amendments thereto, either enter into a consent order with the public agency or issue a finding of violation to the public agency.

(1) If the attorney general enters into a consent order with the public agency, the consent order:

(A) May contain admissions of fact and any or all of the following:

(i) Require completion of training approved by the attorney general concerning the requirements of K.S.A. 45-215 et seq., and amendments thereto;

(ii) impose a civil penalty as provided for in K.S.A. 45-223, and amendments thereto, in an amount not to exceed \$250 for each violation; and

(iii) set forth the public agency's agreement that it will comply with the requirements of the open records act, K.S.A. 45-215 et seq., and amendments thereto; and

(B) shall bear the signature of the head of the public agency, of any officer found to have violated the provisions of K.S.A. 45-215 et seq., and amendments thereto, and of any other person required by the attorney general. If the public agency is a governing body, all of the members of the governing body shall sign the consent order.

(2) If the attorney general issues a finding of violation to the public

agency, the finding may contain findings of fact and conclusions of law and require the public agency to do any or all of the following:

(A) Cease and desist from further violation;

(B) comply with the provisions of K.S.A. 45-215 et seq., and amendments thereto;

(C) complete training approved by the attorney general concerning the requirements of K.S.A. 45-215 et seq., and amendments thereto; and

(D) pay a civil penalty as provided for in K.S.A. 45-223, and amendments thereto, in an amount not to exceed \$500 for each violation.

(b) The attorney general may require submission of proof that requirements of any consent order entered pursuant to subsection (a)(1) or any finding of violation issued pursuant to subsection (a)(2) have been satisfied.

(c)(1) The attorney general may apply to the district court to enforce a consent order pursuant to subsection (a)(1) or finding of violation pursuant to subsection (a)(2). Prior to applying to the district court, the attorney general shall make a demand to the public agency to comply with the consent order or finding of violation and afford reasonable opportunity for the public agency to cure the violation.

(2) An enforcement action under this section may be filed in the district court of the county where the consent order or finding of violation is issued or is effective. The district court of any county shall have jurisdiction to enforce any consent order or finding of violation.

(3) In any enforcement action under this section, the court on its own motion, or on the motion of either party, may view the records in controversy in camera before reaching a decision.

(4) If the district court finds the attorney general did not abuse the attorney general's discretion in entering into the consent order or issuing the finding of violation, the district court shall enter an order that:

(A) Enjoins the public agency to comply with the consent order or finding of violation;

(B) imposes a civil penalty as provided for in K.S.A. 45-223, and amendments thereto. The penalty shall be set by the court in an amount not less than the amount ordered by the attorney general, nor more than \$500 for each violation;

(C) requires the public agency to pay the attorney general's court costs and costs incurred in investigating the violation; and

(D) provides for any other remedy authorized by K.S.A. 45-222(a), and amendments thereto, that the court deems appropriate.

(5) In any enforcement action under this section, if the court finds that any of the provisions of K.S.A. 45-215 et seq., and amendments thereto, were violated, such court:

(A) Except as provided in subsection (c)(5)(B), may require the public agency to pay the attorney general's reasonable attorney fees; and

(B) shall require the public agency to pay the attorney general's rea-

sonable attorney fees, if the public agency's violation was not made in good faith and without a reasonable basis in fact or law.

(d) Any finding of violation issued by the attorney general pursuant to subsection (a)(2) shall be served upon the public agency:

(1) By certified mail, return receipt requested, to the last known place of business, residence or abode within or without this state; or

(2) in the manner provided in the code of civil procedure as if a petition had been filed.

(e) The attorney general shall maintain and make available for public inspection all consent orders entered pursuant to subsection (a)(1) and all findings of violation issued pursuant to subsection (a)(2).

(f) This section shall be a part of and supplemental to the open records act.

New Sec. 2. (a) In lieu of bringing an action as provided in K.S.A. 45-222, and amendments thereto, the attorney general or a county or district attorney may resolve the matter by accepting a consent judgment with respect to any act or practice declared to be a violation of this act. Before any consent judgment entered into pursuant to this section shall be effective, such judgment must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of the consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

(b) A consent judgment may contain any remedy available to the district court, except it shall not include an award of reasonable expenses, investigation costs or attorney fees. A consent judgment may include a stipulation concerning the production of records requested pursuant to K.S.A. 45-215 et seq., and amendments thereto, subject to any permissible redactions as described in the consent judgment.

(c) This section shall be a part of and supplemental to the open records act.

New Sec. 3. (a) Any complaint submitted to the attorney general shall be on a form prescribed by the attorney general setting forth the facts that the complaining party believes show that K.S.A. 45-215 et seq., and amendments thereto, have been violated. The person submitting the complaint must attest to the facts under penalty of perjury pursuant to K.S.A. 53-601, and amendments thereto.

(b) This section shall be a part of and supplemental to the open records act.

New Sec. 4. (a) The attorney general may determine by a preponderance of the evidence after an investigation that a public body or agency has violated K.S.A. 75-4317 et seq., and amendments thereto, and may, at any time prior to the filing of an action pursuant to K.S.A. 75-4320a, and amendments thereto, either enter into a consent order with the pub-

lic body or agency or issue a finding of violation to the public body or agency.

(1) If the attorney general enters into a consent order with the public body or agency, the consent order:

(A) May contain admissions of fact and any or all of the following:

(i) Require completion of training approved by the attorney general concerning the requirements of K.S.A. 75-4317 et seq., and amendments thereto;

(ii) impose a civil penalty as provided for in K.S.A. 75-4320, and amendments thereto, in an amount not to exceed \$250 for each violation; and

(iii) set forth the public body's or agency's agreement that it will comply with the requirements of the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto; and

(B) shall bear the signature of the head of the public body or agency, of any officer found to have violated the provisions of K.S.A. 75-4317 et seq., and amendments thereto, and of any other person required by the attorney general.

(2) If the attorney general issues a finding of violation to the public body or agency, the finding may contain findings of fact and conclusions of law and require the public body or agency to do any or all of the following:

(A) Cease and desist from further violation;

(B) comply with the provisions of K.S.A. 75-4317 et seq., and amendments thereto;

(C) complete training approved by the attorney general concerning the requirements of K.S.A. 75-4317 et seq., and amendments thereto; and

(D) pay a civil penalty as provided for in K.S.A. 75-4320, and amendments thereto, in an amount not to exceed \$500 for each violation.

(b) The attorney general may require submission of proof that requirements of any consent order entered pursuant to subsection (a)(1) or any finding of violation issued pursuant to subsection (a)(2) have been satisfied.

(c) (1) The attorney general may apply to the district court to enforce a consent order pursuant to subsection (a)(1) or finding of violation pursuant to subsection (a)(2). Prior to applying to the district court, the attorney general shall make a demand to the public body or agency to comply with the consent order or finding of violation and afford reasonable opportunity for the public body or agency to cure the violation.

(2) An enforcement action under this section may be filed in the district court of the county where the consent order or finding of violation is issued or is effective. The district court of any county shall have jurisdiction to enforce any consent order or finding of violation.

(3) If the district court finds the attorney general did not abuse the

attorney general's discretion in entering into the consent order or issuing the finding of violation, the district court shall enter an order that:

(A) Enjoins the public body or agency to comply with the consent order or finding of violation;

(B) imposes a civil penalty as provided for in K.S.A. 75-4320, and amendments thereto. The penalty shall be set by the court in an amount not less than the amount ordered by the attorney general, nor more than \$500 for each violation;

(C) requires the public body or agency to pay the attorney general's court costs and costs incurred in investigating the violation; and

(D) provides for any other remedy authorized by K.S.A. 75-4320a(a), and amendments thereto, that the court deems appropriate.

(4) In any enforcement action under this section, if the court finds that any of the provisions of K.S.A. 75-4317 et seq., and amendments thereto, were violated, such court:

(A) Except as provided in subsection (c)(4)(B), may require the public body or agency to pay the attorney general's reasonable attorney fees; and

(B) shall require the public body or agency to pay the attorney general's reasonable attorney fees, if the public body's or agency's violation was not made in good faith and without a reasonable basis in fact or law.

(d) Any finding of violation issued by the attorney general pursuant to subsection (a)(2) shall be served upon the public body or agency:

(1) By certified mail, return receipt requested, to the last known place of business, residence or abode within or without this state; or

(2) in the manner provided in the code of civil procedure as if a petition had been filed.

(e) The attorney general shall maintain and make available for public inspection all consent orders entered pursuant to subsection (a)(1) and all findings of violation issued pursuant to subsection (a)(2).

(f) This section shall be a part of and supplemental to the open meetings act.

New Sec. 5. (a) In lieu of bringing an action as provided in K.S.A. 75-4320a, and amendments thereto, the attorney general or a county or district attorney may resolve the matter by accepting a consent judgment with respect to any act or practice declared to be a violation of this act. Before any consent judgment entered into pursuant to this section shall be effective, such judgment must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of the consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

(b) A consent judgment may contain any remedy available to the dis-

trict court, except it shall not include an award of reasonable expenses, investigation costs or attorney fees.

(c) This section shall be a part of and supplemental to the open meetings act.

New Sec. 6. (a) Any complaint submitted to the attorney general shall be on a form prescribed by the attorney general setting forth the facts that the complaining party believes show that K.S.A. 75-4317 et seq., and amendments thereto, have been violated. The person submitting the complaint must attest to the facts under penalty of perjury pursuant to K.S.A. 53-601, and amendments thereto.

(b) This section shall be a part of and supplemental to the open meetings act.

New Sec. 7. (a) There is hereby created in the state treasury the attorney general's open government fund. Moneys in the attorney general's open government fund shall be used by the attorney general to carry out the provisions and purposes of the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto. All expenditures from the attorney general's open government 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 a person designated by the attorney general.

(b) All civil penalties, expenses, costs and attorney fees awarded in an action brought by the attorney general pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto, or the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, or pursuant to a consent order or finding of violation of the attorney general as provided in section 1 or section 4, and amendments thereto, shall be credited to the attorney general's open government fund.

New Sec. 8. (a) Subject to the availability of appropriations, the attorney general shall provide and coordinate training throughout the state to promote knowledge of, and compliance with, the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto. The attorney general may consult and coordinate with any appropriate organization to provide training.

(b) The attorney general may establish a program of computerized training to promote knowledge of, and compliance with, the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317, and amendments thereto, and to make training available throughout the state.

(c) The attorney general may approve training programs that satisfy training requirements imposed by the district court or by any order or judgment pursuant to the open records act, K.S.A. 45-215 et seq., and

amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto.

New Sec. 9. The attorney general may adopt rules and regulations to implement and administer the provisions of the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto.

Sec. 10. K.S.A. 2014 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2014 Supp. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2014 Supp. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or ex-

amination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

- (A) Is in the public interest;
- (B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;
- (C) would not reveal the identity of any confidential source or undercover agent;
- (D) would not reveal confidential investigative techniques or procedures not known to the general public;
- (E) would not endanger the life or physical safety of any person; and
- (F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense 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, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expand-

ing within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to ~~subsection (b)~~ of K.S.A. 40-409(b), and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under ~~subsection (a)~~ of K.S.A. 40-2,156(a), and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third-party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, do-

mestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnaping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.

(46) Any information or material received by the register of deeds of a county from military discharge papers, DD Form 214. Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.

(47) Information that would reveal the location of a shelter or a safe-house or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault.

(48) Policy information provided by an insurance carrier in accordance with ~~subsection (h)(1) of~~ K.S.A. 44-532(h)(1), and amendments thereto. This exemption shall not be construed to preclude access to an individual employer's record for the purpose of verification of insurance coverage or to the department of labor for their business purposes.

(49) An individual's e-mail address, cell phone number and other contact information which has been given to the public agency for the purpose of public agency notifications or communications which are widely distributed to the public.

(50) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to the Kansas 911 act, and amendments thereto, upon request of the party submitting such records.

(51) Records of a public agency on a public website which are searchable by a keyword search and identify the home address or home ownership of a law enforcement officer as defined in K.S.A. 2014 Supp. 21-5111, and amendments thereto, parole officer, probation officer, court services officer or community correctional services officer. Such individual officer shall file with the custodian of such record a request to have such officer's identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such officer's identifying information from such public access. Such restriction shall expire after five years and such officer may file with the custodian of such record a new request for restriction at any time.

(52) Records of a public agency on a public website which are searchable by a keyword search and identify the home address or home ownership of a federal judge, a justice of the supreme court, a judge of the court of appeals, a district judge, a district magistrate judge, *a municipal judge*, the United States attorney for the district of Kansas, an assistant United States attorney, *a special assistant United States attorney*, the attorney general, an assistant attorney general, ~~a district attorney or county attorney or an assistant district attorney or assistant county attorney~~ *special assistant attorney general, a county attorney, an assistant county attorney, a special assistant county attorney, a district attorney, an assistant district attorney, a special assistant district attorney, a city attorney, an assistant city attorney or a special assistant city attorney.* Such person shall file with the custodian of such record a request to have such person's identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such person's identifying information from such public access. Such restriction shall expire after five years and such person may file with the custodian of such record a new request for restriction at any time.

(53) Records of a public agency that would disclose the name, home address, zip code, e-mail address, phone number or cell phone number or other contact information for any person licensed to carry concealed handguns or of any person who enrolled in or completed any weapons training in order to be licensed or has made application for such license under the personal and family protection act, K.S.A. 2014 Supp. 75-7c01 et seq., and amendments thereto, shall not be disclosed unless otherwise required by law.

(54) Records of a utility concerning information about cyber security threats, attacks or general attempts to attack utility operations provided to law enforcement agencies, the state corporation commission, the federal energy regulatory commission, the department of energy, the south-west power pool, the North American electric reliability corporation, the federal communications commission or any other federal, state or regional

organization that has a responsibility for the safeguarding of telecommunications, electric, potable water, waste water disposal or treatment, motor fuel or natural gas energy supply systems.

(55) Records of a public agency containing information or reports obtained and prepared by the office of the state bank commissioner in the course of licensing or examining a person engaged in money transmission business pursuant to K.S.A. 9-508 et seq., and amendments thereto, shall not be disclosed except pursuant to K.S.A. 9-513c, and amendments thereto, or unless otherwise required by law.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas

supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 11. K.S.A. 2014 Supp. 45-222 is hereby amended to read as follows: 45-222. (a) The district court of any county in which public records are located shall have jurisdiction to enforce the purposes of this act with respect to such records, by injunction, mandamus, *declaratory judgment* or other appropriate order, in an action brought by any person, the attorney general or a county or district attorney. *The district court may require a defendant to complete training approved by the attorney general concerning the requirements of the open records act.*

(b) In any action hereunder, the court shall determine the matter de novo. The court on its own motion, or on motion of either party, may view the records in controversy in camera before reaching a decision.

(c) *In any action hereunder, or under section 1, and amendments thereto, the burden of proof shall be on the public agency to sustain its action.*

(d) In any action hereunder, the court shall award costs and a reasonable sum as an attorney's fee for services rendered in such action, including proceedings on appeal, to be recovered and collected as part of the costs to the plaintiff if the court finds that the agency's denial of access to the public record was not in good faith and without a reasonable basis in fact or law. The award shall be assessed against the public agency that the court determines to be responsible for the violation.

~~(d)~~ (e) In any action hereunder in which the defendant is the prevailing party, the court shall award to the defendant costs and a reasonable sum as an attorney's fee for services rendered in such action, including proceedings on appeal, to be recovered and collected as part of the costs if the court finds that the plaintiff maintained the action not in good faith and without a reasonable basis in fact or law.

~~(e)~~ (f) *In any action hereunder brought by the attorney general or a county or district attorney, if the court finds that any provisions were violated, such court:*

(1) *Except as provided in subsection (f)(2), may award the attorney general's or the county or district attorney's reasonable expenses, investigation costs and attorney fees; and*

(2) *shall award the same if the court determines that the violation was not made in good faith and without a reasonable basis in fact or law.*

(g) Except as otherwise provided by law, proceedings arising under this section shall be assigned for hearing and trial at the earliest practicable date.

~~(f)~~ (h) The provisions of subsections ~~(e)~~ (d) and ~~(d)~~ (e) concerning the awarding of costs and attorney fees for services rendered during an appeal shall apply only to actions which are based on causes of action accruing on or after July 1, 2004.

Sec. 12. K.S.A. 45-223 is hereby amended to read as follows: 45-223. (a) Any public agency subject to this act that knowingly violates any of the provisions of this act or that intentionally fails to furnish information as required by this act shall be liable for the payment of a civil penalty in an action brought by the attorney general or a county or district attorney, in a sum set by the court of not to exceed \$500 for each violation.

(b) Any civil penalty sued for and recovered hereunder by the attorney general shall be paid into the ~~state general~~ attorney general's open government fund. Any civil penalty sued for and recovered hereunder by a county or district attorney shall be paid into the general fund of the county in which the proceedings were instigated.

Sec. 13. K.S.A. 45-228 is hereby amended to read as follows: 45-228. (a) In investigating alleged violations of the ~~Kansas~~ open records act, the attorney general or county or district attorney may:

~~(a)~~ (1) Subpoena witnesses, evidence, records, documents or other material;

~~(b)~~ (2) take testimony under oath;

~~(c)~~ (3) examine or cause to be examined any records or other documentary material of whatever nature relevant to such alleged violations;

~~(d)~~ (4) require attendance during such examination of documentary material and take testimony under oath or acknowledgment in respect of any such documentary material; ~~and~~

~~(e)~~ (5) serve interrogatories; and

(6) administer oaths and affirmations.

(b) *If a public agency claims in writing that any records or documents, or any portion thereof, obtained by the attorney general or a county or district attorney pursuant to subsection (a) are exempt from disclosure for any reason, the attorney general or a county or district attorney shall not further disclose that record or document, nor the contents thereof, unless ordered to do so by a district court enforcing the open records act in connection with such record or document. Such records and documents in the possession of the attorney general or a county or district attorney shall not be subject to a request for inspection and copying under the open records act and shall not be subject to discovery, subpoena or other process.*

(c) *Service by the attorney general or a county or district attorney of any interrogatories or subpoena upon any person shall be made:*

(1) *By certified mail, return receipt requested, to the last known place of business, residence or abode within or without this state; or*

(2) *in the manner provided in the code of civil procedure as if a petition had been filed.*

(d) *If any person willfully fails or refuses to file any response to a request for information, records or other materials required by this section, respond to interrogatories or obey any subpoena issued by the attorney general or a county or district attorney, the attorney general or a county or district attorney may, after notice, apply to the district court of the county where the request, interrogatories or subpoena was issued, or of any other county where venue is proper, and after a hearing thereon the district court may:*

(1) *Issue an order requiring a response to the request for information, records or other materials, a response to the interrogatories or compliance with the subpoena; or*

(2) *grant such other relief as may be required, until the person provides the requested response for information, records or other materials, responds to the interrogatories or obeys the subpoena.*

Sec. 14. K.S.A. 2014 Supp. 75-4317a is hereby amended to read as follows: 75-4317a. As used in the open meetings act, “meeting” means any gathering or assembly in person or through the use of a telephone or any other medium for interactive communication by a majority of the membership of a *public* body or agency subject to this act for the purpose of discussing the business or affairs of the *public* body or agency.

Sec. 15. K.S.A. 2014 Supp. 75-4318 is hereby amended to read as follows: 75-4318. (a) Subject to the provisions of subsection (g), all meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the state and political and taxing subdivisions thereof, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds shall be open to the public and no binding action by such *public* bodies or agencies shall be by secret ballot. Meetings of task forces, advisory committees or subcommittees of advisory committees created pursuant to a governor’s executive order shall be open to the public in accordance with this act.

(b) Notice of the date, time and place of any regular or special meeting of a *public* body or agency designated ~~hereinabove~~ *in subsection (a)* shall be furnished to any person requesting such notice, except that:

(1) If notice is requested by petition, the petition shall designate one person to receive notice on behalf of all persons named in the petition, and notice to such person shall constitute notice to all persons named in the petition;

(2) if notice is furnished to an executive officer of an employees’ organization or trade association, such notice shall be deemed to have been

furnished to the entire membership of such organization or association; and

(3) the public body *or agency* may require that a request to receive notice must be submitted again to the *public body or agency* prior to the commencement of any subsequent fiscal year of the *public body or agency* during which the person wishes to continue receiving notice, but, prior to discontinuing notice to any person, the public body *or agency* must notify the person that notice will be discontinued unless the person re-submits a request to receive notice.

(c) It shall be the duty of the presiding officer or other person calling the meeting, if the meeting is not called by the presiding officer, to furnish the notice required by subsection (b).

(d) Prior to any meeting ~~hereinabove~~ mentioned *by subsection (a)*, any agenda relating to the business to be transacted at such meeting shall be made available to any person requesting the agenda.

(e) The use of cameras, photographic lights and recording devices shall not be prohibited at any meeting mentioned by subsection (a), but such use shall be subject to reasonable rules designed to insure the orderly conduct of the proceedings at such meeting.

(f) Except as provided by section 22 of article 2 of the constitution of the state of Kansas, interactive communications in a series shall be open if they collectively involve a majority of the membership of the *public body or agency*, share a common topic of discussion concerning the business or affairs of the *public body or agency*, and are intended by any or all of the participants to reach agreement on a matter that would require binding action to be taken by the *public body or agency*.

(g) The provisions of the open meetings law shall not apply:

(1) To any administrative body that is authorized by law to exercise quasi-judicial functions when such body is deliberating matters relating to a decision involving such quasi-judicial functions;

(2) to the prisoner review board when conducting parole hearings or parole violation hearings held at a correctional institution;

(3) to any impeachment inquiry or other impeachment matter referred to any committee of the house of representatives prior to the report of such committee to the full house of representatives; and

(4) if otherwise provided by state or federal law or by rules of the Kansas senate or house of representatives.

Sec. 16. K.S.A. 2014 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all *public bodies and agencies* subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of: (1) The justification for closing the meeting;; (2) the subjects to be discussed during the closed or executive meeting; and (3) the time

and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the *public* body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the *public* body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the *public* body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
- (6) preliminary discussions relating to the acquisition of real property;
- (7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804, and amendments thereto;
- (8) matters permitted to be discussed in a closed or executive meeting pursuant to ~~subsection (d)(1) of K.S.A. 38-2212(d)(1)~~, and amendments thereto, or ~~subsection (e) of K.S.A. 38-2213(e)~~, and amendments thereto;
- (9) matters permitted to be discussed in a closed or executive meeting pursuant to ~~subsection (j) of K.S.A. 22a-243(j)~~, and amendments thereto;
- (10) matters permitted to be discussed in a closed or executive meeting pursuant to ~~subsection (e) of K.S.A. 44-596(e)~~, and amendments thereto;
- (11) matters permitted to be discussed in a closed or executive meeting pursuant to ~~subsection (g) of K.S.A. 39-7,119(g)~~, and amendments thereto;
- (12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;
- (13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the *public body or agency* for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate

or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;

(14) matters permitted to be discussed in a closed or executive meeting pursuant to ~~subsection (f) of~~ K.S.A. 65-525(f), and amendments thereto;

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2014 Supp. 75-7427, and amendments thereto; and

(16) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2014 Supp. 46-3801, and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

(d) (1) Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(2) (A) Except as otherwise provided by law, any confidential documents, records or reports relating to the prisoner review board provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(B) Notwithstanding any other provision of law to the contrary, any summary statement provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 17. K.S.A. 2014 Supp. 75-4320 is hereby amended to read as follows: 75-4320. (a) Any member of a *public* body or agency subject to ~~this the open meetings~~ act who knowingly violates any of the provisions of ~~this such~~ act or who intentionally fails to furnish information as required by ~~subsection (b) of~~ K.S.A. 75-4318(b), and amendments thereto, shall be liable for the payment of a civil penalty in an action brought by the attorney general or county or district attorney, in a sum set by the court of not to exceed \$500 for each violation. In addition, any binding action which is taken at a meeting not in substantial compliance with the provisions of ~~this the open meetings~~ act shall be voidable in any action brought by the attorney general or county or district attorney in the district court of the county in which the meeting was held within 21 days of the meeting, and the court shall have jurisdiction to issue injunctions or writs of mandamus to enforce the provisions of ~~this the open meetings~~ act.

(b) Civil penalties sued for and recovered hereunder by the attorney general shall be paid into the ~~state general~~ *attorney general's open government* fund. Civil penalties sued for and recovered hereunder by a county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.

(c) No fine shall be imposed pursuant to subsection (a) for violations of ~~subsection (f) of~~ K.S.A. 75-4318(f), and amendments thereto, which occur prior to July 1, 2009.

Sec. 18. K.S.A. 75-4320a is hereby amended to read as follows: 75-4320a. (a) The district court of any county in which a meeting is held shall have jurisdiction to enforce the purposes of K.S.A. 75-4318 and 75-4319, and amendments thereto, with respect to such meeting, by injunction, mandamus, *declaratory judgment* or other appropriate order, on application of any person. *The district court may require a defendant to complete training approved by the attorney general concerning the requirements of the open meetings act.*

(b) In any action hereunder *or under section 4, and amendments thereto*, the burden of proof shall be on the public body or agency to sustain its action.

(c) In any action hereunder, the court may award court costs to the person seeking to enforce the provisions of K.S.A. 75-4318 or 75-4319, and amendments thereto, if the court finds that the provisions of those statutes were violated. The award shall be assessed against the public ~~agency or~~ *body or agency* responsible for the violation.

(d) In any action hereunder in which the defendant is the prevailing party, the court may award to the defendant court costs if the court finds that the plaintiff maintained the action frivolously, not in good faith or without a reasonable basis in fact or law.

(e) *In any action hereunder brought by the attorney general or a county or district attorney, if the court finds that any provisions of K.S.A. 75-4318 or 75-4319, and amendments thereto, were violated, such court:*

(1) *Except as provided in subsection (e)(2), may award the attorney general's or the county or district attorney's reasonable expenses, investigation costs and attorney fees; and*

(2) *shall award the same if the court determines that the violation was not made in good faith and without a reasonable basis in fact or law.*

(f) Except as otherwise provided by law, proceedings arising under this section shall take precedence over all other cases and shall be assigned for hearing and trial at the earliest practicable date.

(g) As used in this section, "meeting" has the meaning provided by K.S.A. 75-4317a, and amendments thereto.

Sec. 19. K.S.A. 2014 Supp. 75-4320b is hereby amended to read as follows: 75-4320b. (a) In investigating alleged violations of the ~~Kansas~~ open meetings act, the attorney general or county or district attorney may:

~~(a)~~ (1) Subpoena witnesses, evidence, *records*, documents or other material;

~~(b)~~ (2) take testimony under oath;

~~(c)~~ (3) examine or cause to be examined any *records or other* documentary material of whatever nature relevant to such alleged violations;

~~(d)~~ (4) require attendance during such examination of documentary material and take testimony under oath or acknowledgment in respect of any such documentary material; ~~and~~

~~(e)~~ (5) serve interrogatories; *and*

(6) *administer oaths and affirmations.*

(b) *Service by the attorney general or a county or district attorney of any interrogatories or subpoena upon any person shall be made:*

(1) *By certified mail, return receipt requested, to the last known place of business, residence or abode within or without this state; or*

(2) *in the manner provided in the code of civil procedure as if a petition had been filed.*

(c) *If any person willfully fails or refuses to file any response to a request for information, records or other materials required by this section, respond to interrogatories or obey any subpoena issued by the attorney general or a county or district attorney, the attorney general or a county or district attorney may, after notice, apply to the district court of the county where the request, interrogatories or subpoena was issued, or of any other county where venue is proper, and after a hearing thereon the district court may:*

(1) *Issue an order requiring a response to the request for information, records or other materials, a response to interrogatories or compliance with the subpoena; or*

(2) *grant such other relief as may be required, until the person provides the requested response for information, records or other materials, responds to the interrogatories or obeys the subpoena.*

Sec. 20. K.S.A. 45-223, 45-228 and 75-4320a and K.S.A. 2014 Supp. 45-221, 45-222, 75-4317a, 75-4318, 75-4319, 75-4320 and 75-4320b are hereby repealed.

Sec. 21. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 22, 2015.

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## CHAPTER 69

SENATE BILL No. 101  
(Amends Chapter 43)

AN ACT concerning the Kansas transportation network company services act; relating to certain definitions; relating to transportation network company requirements; relating to transportation network company drivers; relating to liens on personal vehicles; amending sections 2, 12 and 19 of 2015 House Substitute for Senate Bill No. 117 and repealing the existing sections.

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

New Section 1. (a) Consistent with the limitations of K.S.A. 50-704, and amendments thereto, the TNC shall not permit an individual to act as a driver on its digital network who:

(1) Has been convicted of:

(A) Any person felony as 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 Annotated, and amendments thereto;

(B) any sex offense as described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2014 Supp. 21-6419 through 21-6422, and amendments thereto;

(C) identity theft, as described in K.S.A. 21-4018, prior to its repeal, or K.S.A. 2014 Supp. 21-6107, and amendments thereto;

(D) any attempt, conspiracy or solicitation of any crime described in this paragraph; or

(E) a crime under the law of another jurisdiction which is substantially the same as the crimes described in this paragraph;

(2) is registered on the national sex offender registry, the Kansas offender registry or any similar registry of any other jurisdiction;

(3) has had a combined total of more than three moving violations in Kansas or any other jurisdiction within the past three years;

(4) has had a traffic violation in Kansas or any other jurisdiction within the past three years of attempting to evade the police, reckless driving or driving on a suspended license;

(5) has been convicted, adjudicated or placed on diversion, within the past seven years, of:

(A) Driving under the influence of drugs or alcohol in Kansas or any other jurisdiction;

(B) any crime involving controlled substances, as described in 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 violation of any provision of the uniform controlled substances act prior to July 1, 2009;

(C) theft, as described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2014 Supp. 21-5801, and amendments thereto;

(D) any crime involving fraud, dishonesty or deceit, as described by the Kansas criminal code;

(E) any attempt, conspiracy or solicitation of any crime described in this subsection; or

(F) a violation of the law or ordinance of another jurisdiction, including any municipality, which is substantially the same as the crimes described in this subsection;

(6) does not possess a valid driver's license;

(7) does not possess proof of registration for the motor vehicle or motor vehicles used to provide a prearranged ride;

(8) does not possess proof of automobile liability insurance for the personal vehicle or personal vehicles used to provide a prearranged ride; or

(9) is not at least 19 years of age.

(b) The provisions of this section shall be a part of and supplemental to the Kansas transportation network company services act.

Sec. 2. Section 2 of 2015 House Substitute for Senate Bill No. 117 is hereby amended to read as follows: Sec. 2. Except as otherwise provided, as used in the Kansas transportation network company services act:

(a) "Act" means the Kansas transportation network company services act.

(b) "Digital network" means any online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(c) "Personal vehicle" means a vehicle that is used by a transportation network company driver in connection with providing a prearranged ride and is:

(1) Owned, leased or otherwise authorized for use by the transportation network company driver; and

(2) not a taxicab, limousine or for-hire vehicle.

(d) "Prearranged ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A "prearranged ride" does not include transportation provided using a taxi, limousine or other for-hire vehicle.

(e) "Transportation network company" or "TNC" means a corporation, partnership, sole proprietorship or other entity that is licensed pursuant to this act and operating in Kansas that uses a digital network to connect transportation network company riders to transportation network

company drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

(f) “Transportation network company driver” or “driver” means an individual who:

(1) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(2) uses a personal vehicle to provide services for riders matched through a digital network controlled by a transportation network company and receives, in exchange for providing the passenger a ride, compensation that exceeds the individual’s cost to provide the ride.

(g) “Transportation network company rider” or “rider” means an individual or persons who use a transportation network company’s digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver’s personal vehicle between points chosen by the rider.

(h) “Vehicle owner” means the owner of a personal vehicle.

Sec. 3. Section 12 of 2015 House Substitute for Senate Bill No. 117 is hereby amended to read as follows: Sec. 12. ~~(a)~~ Prior to permitting an individual to act as a driver on its digital network, the TNC shall:

~~(1)~~(a) Require the individual to submit an application to the TNC, which includes information regarding the applicant’s address, age, driver’s license, driving history, motor vehicle registration, automobile liability insurance and other information required by the TNC; *and*

~~(2)~~ obtain a local and national criminal background check on the individual, conducted by the Kansas bureau of investigation;

~~(A)~~ fingerprints submitted pursuant to this section shall be released by the attorney general to the Kansas bureau of investigation for the purpose of conducting criminal history records checks, utilizing the files and records of the Kansas bureau of investigation and the federal bureau of investigation, and

~~(B)~~ each individual shall be subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the individual and whether the individual has been convicted of any crime that would disqualify the individual from being a transportation network driver under this act;

~~(3)~~(b) obtain and review a driving history research report for such individual; *and*

~~(4)~~ require the individual, if such individual’s personal vehicle is subject to a lien, to provide proof of comprehensive and collision insurance coverage for such personal vehicle that covers the period when the individual is logged on to a TNC’s digital network but not engaged in a

~~prearranged ride and when the individual is engaged in a prearranged ride to the lien holder of such personal vehicle and to the TNC.~~

~~(b) The TNC shall not permit an individual to act as a driver on its digital network who:~~

~~(1) Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period, including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license;~~

~~(2) has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, or theft, acts of violence, or acts of terror;~~

~~(3) is a match in the national sex offender registry database;~~

~~(4) does not possess a valid driver's license;~~

~~(5) does not possess proof of registration for the motor vehicle or motor vehicles used to provide a prearranged ride;~~

~~(6) does not possess proof of automobile liability insurance for the personal vehicle or personal vehicles used to provide a prearranged ride; or~~

~~(7) is not at least 19 years of age.~~

Sec. 4. Section 19 of 2015 House Substitute for Senate Bill No. 117 is hereby amended to read as follows: Sec. 19. (a) A TNC shall disclose *prominently, with a separate acknowledgment of acceptance*, to its TNC drivers in the prospective TNC drivers' written terms of service the following before the drivers are allowed to accept a request for TNC services on the TNC's digital network or software application:

*"If the vehicle that you plan to use to provide transportation network company services has a lien against it, using the vehicle for transportation network company services may violate the terms of your contract with the lienholder. If you are required by agreement with the lienholder to maintain comprehensive and collision insurance on the vehicle, using the vehicle for TNC services without such insurance coverage may violate your legal obligation to the lienholder under Kansas law."*

~~(b) If a TNC's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the TNC shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle. The commission shall not assess any fines as a result of a violation of this subsection.~~

*(c) If the vehicle used by a transportation network driver is subject to a lien and the lienholder requires comprehensive and collision insurance in its agreement, the transportation network driver shall ensure that comprehensive and collision insurance that covers the periods when the transportation network driver is logged on to a TNC's digital network but*

*not engaged in a prearranged ride and when the transportation network driver is engaged in a prearranged ride is in effect.*

*(d) This section shall take effect on and after January 1, 2016.*

Sec. 5. Sections 2, 12 and 19 of 2015 House Substitute for Senate Bill No. 117 are hereby repealed.

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

Approved May 22, 2015.

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## CHAPTER 70

### HOUSE BILL No. 2106

AN ACT concerning securities; relating to the Kansas uniform securities act; criminal penalties; fees; criminal procedure; amending K.S.A. 17-12a204 and K.S.A. 2014 Supp. 17-12a508 and 17-12a601 and repealing the existing sections; also repealing K.S.A. 2014 Supp. 17-12a601a.

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

Section 1. K.S.A. 17-12a204 is hereby amended to read as follows: 17-12a204. (a) Except with respect to a federal covered security or a transaction involving a federal covered security, an order under this act may deny, suspend application of, condition, limit, or revoke an exemption created under K.S.A. 17-12a201(3)(C), (7) or (8) or 17-12a202, and amendments thereto, or an exemption or waiver created under K.S.A. 17-12a203, and amendments thereto, with respect to a specific security, transaction, or offer. An order under this section may be issued only pursuant to the procedures in K.S.A. 17-12a306(d) or 17-12a604, and amendments thereto, and only prospectively.

(b) Knowledge of order required. A person does not violate K.S.A. 17-12a301, 17-12a303 through 17-12a306, 17-12a504 or 17-12a510, and amendments thereto, by an offer to sell, offer to purchase, sale, or purchase effected after the entry of an order issued under this section if the person did not know, and in the exercise of reasonable care could not have known, of the order.

*(c) Nothing in this section shall be construed to exempt any person from the anti-fraud provisions of K.S.A. 17-12a501, and amendments thereto, nor shall any exemption contained in K.S.A. 17-12a201 through 17-12a203, and amendments thereto, be construed to provide relief from any other provision of this article if the sale of such security would violate the provisions of K.S.A. 17-12a501, and amendments thereto.*

Sec. 2. K.S.A. 2014 Supp. 17-12a508 is hereby amended to read as follows: 17-12a508. (a) *Criminal penalties.* (1) Except as provided in sub-

sections (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.

(7) *When amounts are obtained in violation of this act under one scheme or continuing course of business, whether from the same or several sources, the conduct may be considered as one continuing offense, and the amounts aggregated in determining the grade of the offense.*

(b) *Statute of limitations.* (1) Except as provided by ~~subsection (c) of~~ K.S.A. 2014 Supp. 21-5107(e), 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.

(2) *If a crime under this act is a continuing offense, the statute of limitations does not begin to run until the last act in the scheme or course of business is completed. Nothing in this subsection shall prevent the exclusion of a time period pursuant to K.S.A. 2014 Supp. 21-5107(e), and amendments thereto.*

(3) 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. 3. K.S.A. 2014 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 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, 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.

New Sec. 4. (a) At any preliminary examination pursuant to K.S.A. 22-2902, and amendments thereto, in which business records that have been obtained pursuant to K.S.A. 17-12a602, and amendments thereto, are to be introduced as evidence, the business records shall be admissible into evidence in the preliminary examination in the same manner and with the same force and effect as if the individuals who made the record, and the records custodian who keeps the record, had testified in person.

(b) This section shall be part of and supplemental to the Kansas code of criminal procedure.

Sec. 5. K.S.A. 17-12a204 and K.S.A. 2014 Supp. 17-12a508, 17-12a601 and 17-12a601a are hereby repealed.

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

Approved May 27, 2015.

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## CHAPTER 71

Substitute for HOUSE BILL No. 2159

AN ACT concerning driving; relating to driving under the influence and other driving offenses; DUI-IID designation; DUI-IID designation fund; authorized restrictions of driving privileges, ignition interlock device; expungement of convictions and diversions; amending K.S.A. 2014 Supp. 8-241, 8-1015, 12-4516 and 21-6614 and repealing the existing sections; also repealing K.S.A. 2014 Supp. 12-4516b and 21-6614e.

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

Section 1. K.S.A. 2014 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) 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 \$200 after the first occurrence, \$400 after the second occurrence, \$600 after the third occurrence and \$800 after the fourth or subsequent occurrence; and as a result of a test refusal, a conviction for a violation of K.S.A. 2014 Supp. 8-1025, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 2014 Supp. 8-1025, and amendments thereto, shall

be required, at the time of examination, to pay a reinstatement fee of \$600 after the first occurrence, \$900 after the second occurrence, \$1,200 after the third occurrence and \$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, 2014, through June 30, 2018, 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 26% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 12% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, 12% to the forensic laboratory and materials fee fund created by K.S.A. 28-176, and amendments thereto, 17% to the driving under the influence 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, 2018, 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(e), 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.

(e) *The division may issue a driver's license with a DUI-IID designation for a licensee that is operating under ignition interlock restrictions required by K.S.A. 8-1014, and amendments thereto. The reexamination requirement in subsection (a)(2) shall not require reexamination and payment of reinstatement fees until the end of the licensee's ignition interlock restriction period. If the applicant's Kansas driver's license has been expired for one year or more, the applicant must complete a reexamination and pay any applicable reinstatement fees before qualifying for a driver's license with an ignition interlock designation. All other requirements for issuance and renewal of a driver's license under K.S.A. 8-240, and amendments thereto, shall continue to apply. The renewal periods and other requirements in K.S.A. 8-247, and amendments thereto, shall apply. The fees charged for the driver's license with ignition interlock designation shall include: (1) The fee amounts set out in K.S.A. 8-240(f), and amendments thereto; (2) fees prescribed by the secretary of revenue and required in K.S.A. 8-243(a), and amendments thereto; and (3) a \$10 fee to the DUI-IID designation fund. There is hereby created in the state treasury the DUI-IID designation fund. All moneys credited to the DUI-IID designation fund shall be used by the department of revenue only for the purpose of funding the administration and oversight of state certified ignition interlock manufacturers and their service providers.*

Sec. 2. K.S.A. 2014 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(a), 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(a)(1), 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(a)(1), (2), (3) and (4),~~ and amendments thereto; *and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.*

(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(b),~~ 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(b)(2)(A),~~ 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(a)(1), (2), (3) and (4),~~ and amendments thereto; *and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.*

(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(a) or (b),~~ and amendments thereto.

(b) (1) Except as provided in subsection (b)(2), when a person has completed the suspension pursuant to ~~subsection (b)(1)(A) of K.S.A. 8-1014(b)(1)(A),~~ 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.

(2) When a person has completed the suspension pursuant to ~~subsection (b)(1)(A) of K.S.A. 8-1014(b)(1)(A),~~ 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(a), 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.

(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(a) or (b), and amendments thereto, the division shall restrict the person's driving privileges pursuant to ~~subsection (a) or (b) of~~ K.S.A. 8-1014(a) or (b), 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(a), (b) or (c), prior to the amendments by 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(a), (b) or (c), 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. 2014 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. 3. K.S.A. 2014 Supp. 12-4516 is hereby amended to read as follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d), (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), (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. 2014 Supp. 12-16,134(a) or (b), 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.

(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. 2014 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.

(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. 2014 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 *Fifth*, 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.

(e) (1) No person may petition for expungement until ~~10~~ *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~~ a first violation of a city ordinance which would also constitute a first violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto.

(2) *No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of a second or subsequent violation of a city ordinance which would also constitute a second or subsequent violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto.*

(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.

(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.

(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. 2014 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 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, in-

vestment 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. 2014 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.

(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.

(k) 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 an offense has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such offense.

(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 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) 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 representative 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. 4. K.S.A. 2014 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~~ *any nongrid felony or felony* ranked in severity levels 6 through 10 *of the nondrug grid*, 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. 2014 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 ~~non-drug-crime felony~~ ranked in severity levels 1 through 5 of the *nondrug grid*, 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. 2014 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 *Fifth*, 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) (1) No person may petition for expungement until ~~seven~~ *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 *first* violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto, including any diversion for such violation.

(2) *No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed 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 second or subsequent violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto.*

(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. 2014 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. 2014 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;~~

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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 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. 2014 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 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. 2014 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. 2014 Supp. 21-6304(a)(3)(A), 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 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 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 man-

agers 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. 5. K.S.A. 2014 Supp. 8-241, 8-1015, 12-4516, 12-4516b, 21-6614 and 21-6614e are hereby repealed.

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

## CHAPTER 72

Senate Substitute for Substitute HOUSE BILL No. 2170\*

AN ACT concerning schools; creating the freedom from unsafe restraint and seclusion act.

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

Section 1. Sections 1 through 8, and amendments thereto, shall be known and may be cited as the freedom from unsafe restraint and seclusion act.

Sec. 2. As used in sections 1 through 7, and amendments thereto:

(a) "Department" means the state department of education.

(b) "Emergency safety intervention" means the use of seclusion or physical restraint.

(c) "Parent" means: (1) A natural parent; (2) an adoptive parent; (3) a person acting as a parent as defined in K.S.A. 72-1046(d)(2), and amendments thereto; (4) a legal guardian; (5) an education advocate for a student with an exceptionality; (6) a foster parent, unless the student is a child with an exceptionality; or (7) a student who has reached the age of majority or is an emancipated minor.

(d) "Physical restraint" means bodily force used to substantially limit a student's movement, except that consensual, solicited or unintentional contact and contact to provide comfort, assistance or instruction shall not be deemed to be physical restraint.

(e) "School" means any learning environment, including any non-profit institutional day or residential school or accredited nonpublic school, that receives public funding or which is subject to the regulatory authority of the state board of education.

(f) "Seclusion" means placement of a student in a location where all the following conditions are met:

(1) The student is placed in an enclosed area by school personnel;

(2) the student is purposefully isolated from adults and peers; and

(3) the student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.

Sec. 3. (a) Emergency safety interventions shall be used only when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to effect such physical harm. Less restrictive alternatives to emergency safety interventions, such as positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any emergency safety interventions. The use of emergency safety interventions shall cease as soon as the immediate danger of physical harm ceases to exist. Violent action that is destructive of property may necessitate the use of an emergency safety intervention. Use of an emergency safety intervention for purposes of

discipline, punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.

(b) A student shall not be subjected to seclusion if the student is known to have a medical condition that could put the student in mental or physical danger as a result of seclusion. The existence of such medical condition must be indicated in a written statement from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file.

(c) When a student is placed in seclusion, a school employee shall be able to see and hear the student at all times.

(d) All seclusion rooms equipped with a locking door shall be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

(e) A seclusion room shall be a safe place with proportional and similar characteristics as other rooms where students frequent. Such room shall be free of any condition that could be a danger to the student, and shall be well-ventilated and sufficiently lighted.

Sec. 4. (a) When a student is subjected to an emergency safety intervention, the school shall notify the parent, or if a parent cannot be notified, then shall notify an emergency contact person for such student, the same day the emergency safety intervention was used. Documentation of the emergency safety interventions used shall be completed and provided to the parent no later than the school day following the day on which the emergency safety intervention was used. The parent shall be provided the following information after the first incident in which an emergency safety intervention is used during the school year, and may be provided such information after each subsequent incident that occurs during the school year: (1) A copy of the standards of when emergency safety interventions can be used; (2) a flyer on the parent's rights; (3) information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the state board of education; and (4) information that will assist the parent in navigating the complaint process, including contact information for the parent training and information center and protection and advocacy system. Upon the first occurrence of an incident involving the use of emergency safety interventions, the parent shall be provided the foregoing information in printed form, and upon the occurrence of a second or subsequent incident shall be provided with a full website address containing such information.

(b) If a parent believes emergency safety interventions have been used in violation of this act, rules and regulations adopted pursuant thereto or policies of the school district, then within 30 days from being informed of the use of emergency safety intervention, such parent may

file a complaint through the local dispute resolution process. A parent may file a complaint under the state board of education complaint process within 30 days from the date a final decision is issued pursuant to the local dispute resolution process.

(c) The department shall compile reports from schools on the use of emergency safety interventions and provide the results based on aggregate data on the department website, and to the governor and the committees on education in the senate and the house of representatives by January 20, 2016, and annually thereafter. The department's reported results shall include, but shall not be limited to, the following information:

(1) The number of incidents in which emergency safety interventions were used on students who have an individualized education program;

(2) the number of incidents in which emergency safety interventions were used on students who have a section 504 plan;

(3) the number of incidents in which emergency safety interventions were used on students who do not have an individualized education program or a section 504 plan;

(4) the total number of incidents in which emergency safety interventions were used on students;

(5) the total number of students with behavior intervention plans subjected to an emergency safety intervention;

(6) the number of students physically restrained;

(7) the number of students placed in seclusion;

(8) the maximum and median number of minutes a student was placed in seclusion;

(9) the maximum number of incidents in which emergency safety interventions were used on a student;

(10) the information reported under subsection (c)(1) through (c)(3) reported by school to the extent possible;

(11) the information reported under subsections (c)(1) through (c)(9) aggregated by age and ethnicity of the students on a statewide basis; and

(12) such other information as the department deems necessary to report.

Sec. 5. (a) If there is a third incident involving the use of emergency safety interventions within a school year on a student who has an individualized education program or a section 504 plan, then such student's individualized education program team or section 504 plan team shall meet within 10 days after such third incident to discuss the incident and consider the need to conduct a functional behavioral analysis, develop a behavior intervention plan or amend either if already in existence, unless the individualized education program team or the section 504 plan team has agreed on a different process.

(b) If there is a third incident involving the use of emergency safety interventions within a school year on a student who is not described in

subsection (a), then a meeting between such student's parent and school employees shall be conducted within 10 days after such third incident to discuss the incident and consider the appropriateness of a referral for an evaluation under the special education for exceptional children act, K.S.A. 72-961 et seq., and amendments thereto, the need for a functional behavioral analysis or the need for a behavior intervention plan. Any meeting called pursuant to this subsection shall include the student's parent, a school administrator for the school where the student attends, one of the student's teachers, a school employee involved in the incident and such other school employees designated by the school administrator as appropriate for such meeting.

(c) The student shall be invited to any meeting called pursuant to this section.

(d) The time for calling a meeting pursuant to this section shall be extended beyond the 10-day limit if the parent of the student is unable to attend within that time period.

(e) Nothing in this section shall be construed to prohibit the development and implementation of a functional behavioral analysis or a behavior intervention plan for any student if such student may benefit from such measures but has had less than three incidents involving emergency safety interventions within a school year.

Sec. 6. The state board of education shall adopt rules and regulations as necessary to implement the provisions of this act on or before March 1, 2016. Such rules and regulations shall include, but not be limited to, the standards for the use and reporting of emergency safety interventions as provided in sections 2 through 5, and amendments thereto.

Sec. 7. (a) There is hereby established the emergency safety intervention task force. The task force shall consist of the 17 members appointed as follows:

(1) Two members shall be appointed by the state board of education, one of which shall be a member of the state board of education and one of which shall be an attorney for the department;

(2) two members shall be appointed by the disability rights center of Kansas;

(3) two members shall be appointed by families together inc., one of which shall be a parent of a child with a disability;

(4) two members shall be appointed by keys for networking, inc., one of which shall be a parent of a child with a disability;

(5) two members shall be appointed by the special education advisory council;

(6) two members shall be appointed by the Kansas association of special education administrators;

(7) two members shall be appointed by the executive director of the

Kansas council on developmental disabilities, one of which shall be a parent of a child with a disability;

(8) two members shall be appointed by the Kansas association of school boards, one of which shall be an attorney for the association; and

(9) one member shall be appointed by the center for child health and development of the university of Kansas medical center, who shall be a person licensed to practice medicine and surgery in Kansas who is a practicing physician with experience treating and diagnosing individuals with disabilities, but who is not a staff member of the center for child health and development of the university of Kansas medical center.

(b) The emergency safety intervention task force shall study and review the use of emergency safety interventions and prepare a report on its findings and recommendations concerning the use of such interventions. The task force's report shall be submitted to the governor and the legislature on or before January 20, 2016.

(c) The member of the task force who is also a member of the state board of education shall call an organizational meeting of the task force on or before August 1, 2015. At such organizational meeting the members shall elect a chairperson and vice-chairperson from the membership of the task force. The task force also shall consider dates for future meetings, the agenda for such meetings and the need for electing a facilitator to assist in discussions among the members of the task force.

(d) The task force may meet at any time and at any place within the state on the call of the chairperson. A quorum of the task force shall be eight members. All actions of the task force shall be by motion adopted by a majority of those members present when there is a quorum.

(e) If approved by the legislative coordinating council, members of the task force attending meetings authorized by the task force shall be paid amounts for expenses, mileage and subsistence as provided in K.S.A. 75-3223(e), and amendments thereto.

Sec. 8. The provisions of sections 1 through 8, and amendments thereto, shall expire on June 30, 2018.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 27, 2015.

Published in the *Kansas Register* June 4, 2015.

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## CHAPTER 73

## HOUSE BILL No. 2395

AN ACT concerning state building projects; relating to negotiating committees; relating to the alternative procurement; amending K.S.A. 2014 Supp. 75-1253 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 75-1253 is hereby amended to read as follows: 75-1253. (a) Whenever it becomes necessary in the judgment of the secretary of administration or in any case when the total cost of a project for the construction of a building or for major repairs or improvements to a building for a state agency is expected to exceed ~~\$750,000~~ when architectural services are desired for the project or to exceed ~~\$500,000~~ when engineering services or land surveying services are desired for the project ~~\$1,000,000~~, the secretary of administration shall convene a negotiating committee. 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 project architect, engineer or land surveyor for the project. Such list shall be submitted to the negotiating committee, without any recommendation of preference or other recommendation.

(b) The secretary of administration may combine two or more separate projects for the construction of buildings or for major repairs or improvements to buildings for state agencies, for the purpose of procuring architectural, engineering or land surveying services for all such projects from a single firm. In each case, the combined projects shall be construed to be a single project for all purposes under the provisions of K.S.A. 75-1250 through 75-1267, and amendments thereto.

(c) (1) This section shall not apply to any repetitive project with a standard plan that was originally designed by the secretary of administration or an agency architect pursuant to paragraphs (2) and (3) of subsection (a) of K.S.A. 75-1254(a)(2) and (3), and amendments thereto. In such a case, the secretary of administration or the agency architect may provide architectural services for the repetitive project.

(2) "Repetitive project" means a project which uses the same standard design as was used for a project constructed previously, including, but not limited to, sub-area shops and salt domes of the department of transportation and showers and toilet buildings of the Kansas department of wildlife, parks and tourism. The plans for the project may be modified as required for current codes, operational needs or cost control. The total floor area of the project may be increased by an area of not more than 25% of the floor area of the originally constructed project, except that not more than 25% of the linear feet of the exterior and interior walls may be moved for such increase. A project shall not be considered to be repetitive if it has been over four years between the substantial comple-

tion of the last project using the design plans and the appropriation of funds for the proposed project.

Sec. 2. K.S.A. 2014 Supp. 75-1253 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 27, 2015.

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## CHAPTER 74

### HOUSE BILL No. 2233

AN ACT concerning utilities; relating to electric generating units and carbon dioxide emission standards; concerning the establishment of state performance standards, legislative review; state corporation commission; secretary of health and environment; creating the clean power plan implementation study committee; amending K.S.A. 2014 Supp. 65-3031 and repealing the existing section.

WHEREAS, The United States environmental protection agency has proposed a carbon dioxide emission standard that requires the state of Kansas to comply with a state-wide emission standard rather than requiring individual utilities to meet a specific emission standard on a generating unit basis. In determining a carbon dioxide emission standard for Kansas, the environmental protection agency has elected to require states to re-dispatch coal-fired electric generating units to natural gas-fired combined cycle generation units and renewable generating resources as well as the use of energy efficiency and demand-side management resources. Because the environmental protection agency's approach to setting a carbon dioxide emission standard crosses jurisdictional authorities, and due to the complexity of re-dispatching the integrated electric system in the state of Kansas while maintaining reliable electric service and reasonable electric rates for ratepayers, both the Kansas department of health and environment and the state corporation commission will need to provide their respective expertise in order to efficiently and effectively develop a cost-effective and reliable compliance plan. This act shall be called the Kansas electric ratepayer protection act.

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

Section 1. K.S.A. 2014 Supp. 65-3031 is hereby amended to read as follows: 65-3031. (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, In accordance with the requirements of the environmental protection agency's~~

*rulemaking pursuant to docket EPA-HQ-OAR-2013-0602, the secretary may develop and submit to the environmental protection agency a state plan for compliance with the regulation of carbon dioxide from any affected or existing electric generating units pursuant to 42 U.S.C. § 7411.*

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 *improvements to any affected electric generating unit* 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 application 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~~ *such* 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. 2014 Supp. 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) *The secretary and the state corporation commission shall enter into a memorandum of understanding concerning implementation of the requirements and responsibilities under the Kansas air quality act.*

(e) (1) *The secretary shall submit to the clean power plan implementation study committee:*

(A) *A plan to investigate, review and develop a state plan no later than the first week of November 2015;*

(B) *information on any final rule adopted by the environmental protection agency under docket EPA-HQ-OAR-2013-0602 no later than February 1, 2016; and*

(C) *any information requested by the chairperson.*

(2) *The state corporation commission shall submit information to the clean power plan implementation study committee concerning:*

(A) *Each utility's re-dispatch options along with the cost of each option;*

(B) *the lowest possible cost re-dispatch options on a state-wide basis; and*

(C) *the impact of each re-dispatch option on the reliability of Kansas' integrated electric systems.*

(f) *The secretary shall present any proposed state plan proposed for submission to the environmental protection agency to the clean power plan implementation study committee for review and input pursuant to section 2, and amendments thereto, at least 30 days prior to submission of such a plan to the environmental protection agency or any other federal agency. If a proposed plan is disapproved by the clean power plan implementation study committee, the secretary shall resubmit a revised plan to the study committee. The secretary may submit any proposed plan to the environmental protection agency that has been submitted to the study committee and that has not been disapproved by the committee within 30 days of the committee receiving such proposed plan.*

(g) *Notwithstanding review by the clean power plan implementation study committee of the submission of a state plan to the environmental protection agency, further action by the secretary to implement or enforce the final approved state plan is dependent upon the final adoption of the federal emission guidelines. If the federal emission guidelines are not adopted or are adopted and subsequently suspended, vacated, in whole or in part, or held to not be in accordance with the law, the secretary shall suspend or terminate, as appropriate, further action to implement or enforce the state plan.*

(h) *Notwithstanding any other provision of law, prior to submitting any state plan to the environmental protection agency, the secretary shall:*  
(1) *Submit such state plan as proposed rules and regulations pursuant to K.S.A. 77-415 et seq., and amendments thereto. Such submission shall be*

*expedited by any agency reviewing such proposed rules and regulations pursuant to K.S.A. 77-415 et seq., and amendments thereto;*

*(2) request a review of the proposed state plan by the office of the attorney general. The attorney general review may certify to the secretary that the plan will not hinder, undermine or in any way harm the position of the state of Kansas in any current or pending litigation relating to the environmental protection agency docket EPA-HQ-OAR-2013-0602. The attorney general shall also review the proposed state plan concerning any impacts on the protections guaranteed by the constitutions of the United States or the state of Kansas; and*

*(3) not submit a state plan if the attorney general review indicates that the proposed plan would adversely impact the state's legal position in any current or pending litigation relating to the environmental protection agency docket EPA-HQ-OAR-2013-0602 or if the attorney general review indicates that the proposed state plan adversely impacts protections guaranteed by the constitutions of the United States or the state of Kansas.*

*(i) The secretary shall be responsible for submitting a state plan to the environmental protection agency in a timely manner. Notwithstanding any other provision of this act, the secretary shall prepare and submit any request for an extension of time to file a state plan, if necessary, an interim state plan or a final state plan to the environmental protection agency. Any interim or final state plan shall be submitted by the secretary no less than four calendar days prior to the federal submission deadline, or extended submission deadline, established by the environmental protection agency. Any final state plan submitted to the environmental protection agency may only be submitted if the secretary has previously submitted such plan for review by the clean power plan implementation study committee pursuant to this act.*

~~(d)-(j)~~ This section shall be part of and supplemental to the Kansas air quality act.

New Sec. 2. (a) (1) There is hereby established the clean power plan implementation study committee. The committee shall hold informational hearings and receive updates from the department of health and environment, the state corporation commission and the attorney general about the implications of the adoption of a state plan pursuant to docket EPA-HQ-OAR-2013-0602 concerning the impact to: (A) Electric rate-payers; (B) electric utilities; (C) the reliability of the electric grid in Kansas; and (D) the overall sovereignty of the state.

(2) Upon development of a state plan pursuant to K.S.A. 2014 Supp. 65-3031, and amendments thereto, the secretary of health and environment shall submit the plan to the study committee for review. Within 30 days of receiving any proposed state plan, the committee shall hold a committee meeting and review the impact of the plan pursuant to this

section and may approve or disapprove the submission of the plan. If the study committee disapproves the submission of the plan, the committee shall provide the secretary the reasons for such disapproval.

(b) (1) The study committee shall be composed of 11 voting members. Five members shall be from the senate committee on utilities as follows: (A) The chairperson, vice-chairperson and ranking minority member; and (B) two members appointed by the president of the senate.

(2) Six members shall be from the house committee on energy and environment as follows: (A) The chairperson, vice-chairperson and ranking minority member; and (B) three members appointed by the speaker of the house of representatives.

(3) A quorum of the clean power plan implementation study committee shall be six members. All actions of the committee shall be taken by a majority of all of the members of the committee. Any vacancy in the membership of the committee shall be filled by appointment in the same manner prescribed by this section for the original appointment.

(c) Members shall be appointed to the study committee on or before July 1, 2015, for a term ending on June 30, 2017. On and after the first day of the regular legislative session in odd-numbered years, the chairperson of the study committee shall be the chairperson of the house committee on energy and environment and the vice-chairperson of the study committee shall be the chairperson of the senate committee on utilities and, after the first day of the regular legislative session in even-numbered years, the chairperson of the study committee shall be the chairperson of the senate committee on utilities and the vice-chairperson of the study committee shall be the chairperson of the house committee on energy and environment. The chairperson and vice-chairperson of the study committee shall serve in such capacities until the first day of the regular legislative session in the ensuing year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. The first meeting of the study committee shall be called by the chairperson of the committee following the conclusion of the 2015 regular session of the Kansas legislature. The committee shall have the authority to meet at any time and at any place within the state on the call of the chairperson.

(d) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the clean power plan implementation study committee to the extent that the same do not conflict with the specific provisions of this act applicable to the study committee.

(e) Members of the clean power plan implementation study committee shall receive compensation, travel expenses and subsistence expenses as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of the committee.

(f) The staff of the office of revisor of statutes, the legislative research

department and the division of legislative administrative services shall provide such assistance as may be requested by the study committee.

(g) The provisions of this section shall expire on June 30, 2017.

Sec. 3. K.S.A. 2014 Supp. 65-3031 is hereby repealed.

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

Approved May 28, 2015.

Published in the *Kansas Register* June 4, 2015.

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## CHAPTER 75

### House Substitute for SENATE BILL No. 91

AN ACT concerning renewable energy; relating to the renewable energy standards act, electric generation standard; relating to property tax; concerning exemptions for property used for renewable energy resources; relating to property tax on public utilities, definitions and exceptions; amending K.S.A. 2014 Supp. 66-1256, 66-1257, 66-1259, 79-201, 79-223 and 79-5a01 and repealing the existing sections; also repealing K.S.A. 2014 Supp. 66-1258, 66-1260, 66-1261 and 66-1262.

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

Section 1. On and after January 1, 2016, K.S.A. 2014 Supp. 66-1256 is hereby amended to read as follows: 66-1256. (a) K.S.A. 2014 Supp. 66-1256 through 66-1262, 66-1257 and 66-1259, and amendments thereto, shall be known and may be cited as the renewable energy standards act.

(b) *The legislature declares that it is in the public interest to promote renewable energy development in order to best utilize the abundant natural resources found in this state. There is hereby established a renewable energy standard for the state. The renewable energy standard shall be a voluntary goal that 20% of a utility's peak demand within the state be generated from renewable energy resources by the year 2020.*

Sec. 2. On and after January 1, 2016, K.S.A. 2014 Supp. 66-1257 is hereby amended to read as follows: 66-1257. As used in the renewable energy standards act:

(a) "Affected utility" means any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, but does not include any portion of any municipally owned or operated electric utility.

(b) "Commission" means the state corporation commission.

(c) ~~"Net renewable generation capacity" means the gross generation capacity of the renewable energy resource over a four-hour period when not limited by ambient conditions, equipment, operating or regulatory restrictions less auxiliary power required to operate the resource, and refers to resources located in the state or resources serving ratepayers in the state.~~

~~(d)~~ “Peak demand” means the demand imposed by the affected utility’s retail load in the state.

~~(e)~~ “Renewable energy credit” means a credit representing energy produced by renewable energy resources issued as part of a program that has been approved by the state corporation commission.

~~(f)~~(d) “Renewable energy resources” means net renewable generation capacity from:

- (1) Wind;
- (2) solar thermal sources;
- (3) photovoltaic cells and panels;
- (4) dedicated crops grown for energy production;
- (5) cellulosic agricultural residues;
- (6) plant residues;
- (7) methane from landfills or from wastewater treatment;
- (8) clean and untreated wood products such as pallets;
- (9) (A) existing hydropower;
- (B) new hydropower;
- (10) fuel cells using hydrogen produced by one of the above-named renewable energy resources; *and*

(11) energy storage that is connected to any renewable generation by means of energy storage equipment including, but not limited to, batteries, fly wheels, compressed air storage and pumped hydro; ~~and~~

~~(12) other sources of energy, not including nuclear power, that become available after the effective date of this section, and that are certified as renewable by rules and regulations established by the commission pursuant to K.S.A. 2014 Supp. 66-1262, and amendments thereto.~~

Sec. 3. K.S.A. 2014 Supp. 66-1259 is hereby amended to read as follows: 66-1259. (a) The commission shall allow affected utilities to recover reasonable costs incurred ~~to meet the new or committed to be incurred as a result of compliance with the renewable energy resource requirements required in the renewable energy standards act K.S.A. 2014 Supp. 66-1258, prior to its repeal. All rules and regulations and orders of the state corporation commission that relate to allowing a utility to recover costs incurred to meet such requirement, and that are in effect on June 30, 2015, shall continue to be effective. The commission shall allow affected utilities to recover reasonable costs incurred as a result of meeting the voluntary 20% goal in K.S.A. 2014 Supp. 66-1256, and amendments thereto.~~

(b) *Nothing in this act shall be construed to impair any existing contracts, leases or agreements.*

Sec. 4. K.S.A. 2014 Supp. 79-201 is hereby amended to read as follows: 79-201. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

*First.* All buildings used exclusively as places of public worship and all buildings used exclusively by school districts and school district interlocal cooperatives organized under the laws of this state, with the furniture and books therein contained and used exclusively for the accommodation of religious meetings or for school district or school district interlocal cooperative purposes, whichever is applicable, together with the grounds owned thereby if not leased or otherwise used for the realization of profit, except that: (a) (1) Any school building, or portion thereof, together with the grounds upon which the building is located, shall be considered to be used exclusively by the school district for the purposes of this section when leased by the school district to any political or taxing subdivision of the state, including a school district interlocal cooperative, or to any association, organization or nonprofit corporation entitled to tax exemption with respect to such property; and (2) any school building, together with the grounds upon which the building is located, shall be considered to be used exclusively by a school district interlocal cooperative for the purposes of this section when being acquired pursuant to a lease-purchase agreement; and (b) any building, or portion thereof, used as a place of worship, together with the grounds upon which the building is located, shall be considered to be used exclusively for the religious purposes of this section when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto, or when used to house an area where the congregation of a church society and others may purchase tracts, books and other items relating to the promulgation of the church society's religious doctrines.

*Second.* All real property, and all tangible personal property, actually and regularly used exclusively for literary, educational, scientific, religious, benevolent or charitable purposes, including property used exclusively for such purposes by more than one agency or organization for one or more of such exempt purposes. Except with regard to real property which is owned by a religious organization, is to be used exclusively for religious purposes and is not used for a nonexempt purpose prior to its exclusive use for religious purposes which property shall be deemed to be actually and regularly used exclusively for religious purposes for the purposes of this paragraph, this exemption shall not apply to such property, not actually used or occupied for the purposes set forth herein, nor to such property held or used as an investment even though the income or rentals received therefrom is used wholly for such literary, educational, scientific, religious, benevolent or charitable purposes. In the event any such property which has been exempted pursuant to the preceding sentence is not used for religious purposes prior to its conveyance which results in its use for nonreligious purposes, there shall be a recoupment of property taxes in an amount equal to the tax which would have been levied upon such property except for such exemption for all taxable years for which such exemption was in effect. Such recoupment tax shall be-

come due and payable in such year as provided by K.S.A. 79-2004, and amendments thereto. A lien for such taxes shall attach to the real property subject to the same on November 1 in the year such taxes become due and all such taxes remaining due and unpaid after the date prescribed for the payment thereof shall be collected in the manner provided by law for the collection of delinquent taxes. Moneys collected from the recoupment tax hereunder shall be credited by the county treasurer to the several taxing subdivisions within which such real property is located in the proportion that the total tangible property tax levies made in the preceding year for each such taxing subdivision bear to the total of all such levies made in that year by all such taxing subdivisions. Such moneys shall be credited to the general fund of the taxing subdivision or if such taxing subdivision is making no property tax levy for the support of a general fund such moneys may be credited to any other tangible property tax fund of general application of such subdivision. This exemption shall not be deemed inapplicable to property which would otherwise be exempt pursuant to this paragraph because an agency or organization: (a) Is reimbursed for the provision of services accomplishing the purposes enumerated in this paragraph based upon the ability to pay by the recipient of such services; or (b) is reimbursed for the actual expense of using such property for purposes enumerated in this paragraph; or (c) uses such property for a nonexempt purpose which is minimal in scope and insubstantial in nature if such use is incidental to the exempt purposes of this paragraph; or (d) charges a reasonable fee for admission to cultural or educational activities or permits the use of its property for such activities by a related agency or organization, if any such activity is in furtherance of the purposes of this paragraph; or (e) is applying for an exemption pursuant to this paragraph for a motor vehicle that is being leased for a period of at least one year.

*Third.* All moneys and credits belonging exclusively to universities, colleges, academies or other public schools of any kind, or to religious, literary, scientific or benevolent and charitable institutions or associations, appropriated solely to sustain such institutions or associations, not exceeding in amount or in income arising therefrom the limit prescribed by the charter of such institution or association.

*Fourth.* The reserve or emergency funds of fraternal benefit societies authorized to do business under the laws of the state of Kansas.

*Fifth.* All buildings of private nonprofit universities or colleges which are owned and operated by such universities and colleges as student union buildings, presidents' homes and student dormitories.

*Sixth.* All real and tangible personal property actually and regularly used exclusively by the alumni association associated by its articles of incorporation with any public or nonprofit Kansas college or university approved by the Kansas board of regents to confer academic degrees or with any community college approved by its board of trustees to grant

certificates of completion of courses or curriculum, to provide accommodations and services to such college or university or to the alumni, staff or faculty thereof.

*Seventh.* All parsonages owned by a church society and actually and regularly occupied and used predominantly as a residence by a minister or other clergyman of such church society who is actually and regularly engaged in conducting the services and religious ministrations of such society, and the land upon which such parsonage is located to the extent necessary for the accommodation of such parsonage.

*Eighth.* All real property, all buildings located on such property and all personal property contained therein, actually and regularly used exclusively by any individually chartered organization of honorably discharged military veterans of the United States armed forces or auxiliary of any such organization, which is exempt from federal income taxation pursuant to section 501(c)(19) of the federal internal revenue code of 1986, for clubhouse, place of meeting or memorial hall purposes, and real property to the extent of not more than two acres, and all buildings located on such property, actually and regularly used exclusively by any such veterans' organization or its auxiliary as a memorial park.

*Ninth.* All real property and tangible personal property actually and regularly used by a community service organization for the predominant purpose of providing humanitarian services, which is owned and operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign not-for-profit corporation if: (a) The directors of such corporation serve without pay for such services; (b) the corporation is operated in a manner which does not result in the accrual of distributable profits, realization of private gain resulting from the payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered or the realization of any other form of private gain; (c) no officer, director or member of such corporation has any pecuniary interest in the property for which exemption is claimed; (d) the corporation is organized for the purpose of providing humanitarian services; (e) the actual use of property for which an exemption is claimed must be substantially and predominantly related to the purpose of providing humanitarian services, except that, the use of such property for a nonexempt purpose which is minimal in scope and insubstantial in nature shall not result in the loss of exemption if such use is incidental to the purpose of providing humanitarian services by the corporation; (f) the corporation is exempt from federal income taxation pursuant to section 501(c)(3) of the internal revenue code of 1986; and (g) contributions to the corporation are deductible under the Kansas income tax act. As used in this clause, "humanitarian services" means the conduct of activities which substantially and predominantly meet a demonstrated community need and

which improve the physical, mental, social, cultural or spiritual welfare of others or the relief, comfort or assistance of persons in distress or any combination thereof including, but not limited to, health and recreation services, child care, individual and family counseling, employment and training programs for handicapped persons and meals or feeding programs. Notwithstanding any other provision of this clause, motor vehicles shall not be exempt hereunder unless such vehicles are exclusively used for the purposes described therein, except that the use of any such vehicle for the purpose of participating in a coordinated transit district in accordance with the provisions of K.S.A. 75-5032 through 75-5037, and amendments thereto, or K.S.A. 75-5051 through 75-5058, and amendments thereto, shall be deemed as exclusive use.

*Tenth.* For all taxable years commencing after December 31, 1986, any building, and the land upon which such building is located to the extent necessary for the accommodation of such building, owned by a church or nonprofit religious society or order which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and actually and regularly occupied and used exclusively for residential and religious purposes by a community of persons who are bound by vows to a religious life and who conduct or assist in the conduct of religious services and actually and regularly engage in religious, benevolent, charitable or educational ministrations or the performance of health care services.

*Eleventh.* For all taxable years commencing after December 31, 1998, all property actually and regularly used predominantly to produce and generate electricity utilizing renewable energy resources or technologies *when the applicant for such property, on or before December 31, 2016, has filed an application for exemption pursuant to this subsection or has received a conditional use permit to produce and generate electricity on the property from the county in which the property is located. Any exemption granted under the provisions of this subsection for such property when the applicant, after December 31, 2016, has filed such application or filed such application and received a conditional use permit, shall be in effect for the 10 taxable years immediately following the taxable year in which construction or installation of such property is completed.* For purposes of this section, “renewable energy resources or technologies” shall include wind, solar, photovoltaic, biomass, hydropower, geothermal and landfill gas resources or technologies.

*Twelfth.* For all taxable years commencing after December 31, 2001, all personal property actually and regularly used predominantly to collect, refine or treat landfill gas or to transport landfill gas from a landfill to a transmission pipeline, and the landfill gas produced therefrom.

The provisions of this section, except as otherwise more specifically provided, shall apply to all taxable years commencing after December 31, 2009.

Sec. 5. K.S.A. 2014 Supp. 79-223 is hereby amended to read as follows: 79-223. (a) It is the purpose of this section to promote, stimulate, foster and encourage new investments in commercial and industrial machinery and equipment in the state of Kansas, to contribute to the economic recovery of the state, to enhance business opportunities in the state, to encourage the location of new businesses and industries in the state as well as the retention and expansion of existing businesses and industries and to promote the economic stability of the state by maintaining and providing employment opportunities, thereby contributing to the general welfare of the citizens of the state, by exempting from property taxation all newly purchased or leased commercial and industrial machinery and equipment, including machinery and equipment transferred into this state for the purpose of expanding an existing business or for the creation of a new business.

(b) The following described property, to the extent specified by this section, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

*First.* Commercial and industrial machinery and equipment acquired by qualified purchase or lease made or entered into after June 30, 2006, as the result of a bona fide transaction not consummated for the purpose of avoiding taxation.

*Second.* Commercial and industrial machinery and equipment transported into this state after June 30, 2006, for the purpose of expanding an existing business or creation of a new business.

(c) Any purchase, lease or transportation of commercial and industrial machinery and equipment consummated for the purpose of avoiding taxation shall subject the property to the penalty provisions of K.S.A. 79-1422 and 79-1427a, and amendments thereto. The county appraiser shall not reclassify any property that is properly classified for property tax purposes within subclass (5) of class 2 of section 1 of article 11 of the constitution of the state of Kansas.

(d) As used in this section:

(1) “Acquired” shall not include the transfer of property pursuant to an exchange for stock securities, or the transfer of assets from one going concern to another due to a merger, reorganization or other consolidation;

(2) “commercial and industrial machinery and equipment” means property classified for property tax purposes within subclass (5) of class 2 of section 1 of article 11 of the constitution of the state of Kansas, *but shall not include any electric generation facility or addition to an electric generation facility that is used predominately to produce and generate electricity utilizing renewable energy resources or technologies as defined in K.S.A. 79-201, and amendments thereto;*

(3) “qualified lease” means a lease of commercial and industrial machinery and equipment for not less than 30 days for fair and valuable

consideration where such machinery and equipment is physically transferred to the lessee to be used in the lessee's business or trade; and

(4) "qualified purchase" means a purchase of commercial and industrial machinery and equipment for fair and valuable consideration where such machinery and equipment is physically transferred to the purchaser to be used in the purchaser's business or trade.

(e) The secretary of revenue is hereby authorized to adopt rules and regulations to administer the provisions of this section.

Sec. 6. K.S.A. 2014 Supp. 79-5a01 is hereby amended to read as follows: 79-5a01. (a) As used in this act, the terms "public utility" or "public utilities" means every individual, company, corporation, association of persons, brokers, marketers, lessees or receivers that now or hereafter own, broker or market natural gas inventories stored for resale in an underground formation in this state, or now or hereafter are in control, manage or operate a business of:

(1) A railroad or railroad corporation if such railroad or railroad corporation owns or holds, by deed or other instrument, an interest in right-of-way, track, franchise, roadbed or trackage in this state;

(2) transmitting to, from, through or in this state telegraphic messages;

(3) transmitting to, from, through or in this state telephonic messages;

(4) transporting or distributing to, from, through or in this state natural gas, oil or other commodities in pipes or pipelines, or engaging primarily in the business of storing natural gas in an underground formation;

(5) generating, conducting or distributing to, from, through or in this state electric power;

(6) transmitting to, from, through or in this state water if for profit or subject to regulation of the state corporation commission; and

(7) transporting to, from, through or in this state cargo or passengers by means of any vessel or boat used in navigating any of the navigable watercourses within or bordering upon this state.

(b) The terms "public utility" or "public utilities" shall not include: (1) Rural water districts established under the laws of the state of Kansas; or (2) any individual, company, corporation, association of persons, lessee or receiver owning or operating an oil or natural gas production gathering line which is situated within one county in this state and does not cross any state boundary line; (3) any individual, company, corporation, association of persons, lessee or receiver owning any vessel or boat operated upon the surface of any manmade waterway located entirely within one county in the state; ~~or~~ (4) for all taxable years commencing after December 31, 1998, any natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural

use; or (5) any individual, company, corporation, association of persons, lessees or receivers to the extent any activity or facility of such entity generates, markets or sells electricity at wholesale only, has no retail customers and is generated by an electric generation facility or addition to an electric generation facility that is actually and regularly used predominantly to produce and generate electricity utilizing renewable energy resources or technologies as defined in K.S.A. 79-201, and amendments thereto.

(c) The provisions of subsection (a) as amended by this act shall be applicable to all taxable years commencing after December 31, 2008.

New Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application 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. 8. K.S.A. 2014 Supp. 66-1259, 66-1260, 66-1261, 66-1262, 79-201, 79-223 and 79-5a01 are hereby repealed.

Sec. 9. On and after January 1, 2016, K.S.A. 2014 Supp. 66-1256, 66-1257 and 66-1258 are hereby repealed.

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

Approved May 28, 2015.

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## CHAPTER 76

### HOUSE BILL No. 2154

AN ACT concerning servicemembers and veterans of the United States armed forces; relating to private sector employment; postsecondary educational institution tuition; diversions and sentencing; servicemember and military spouse expedited professional credentialing; amending K.S.A. 48-517 and K.S.A. 2014 Supp. 12-4415, 21-6630, 21-6815, 22-2908, 48-3406 and 76-729 and repealing the existing sections.

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

New Section 1. (a) As used in this section, “veteran” shall have the meaning ascribed to it in K.S.A. 73-201, and amendments thereto.

(b) There is hereby established a permissive preference in private employment for veterans.

(c) A private employer may adopt an employment policy that gives preference in hiring to a veteran, provided that the veteran meets the requirements of the vacant position.

(d) Such employment policy shall be:

(1) In writing; and

(2) applied consistently to all decisions regarding initial employment.

(e) The veteran shall submit proof of such veteran's military service and honorable discharge or general discharge under honorable conditions to a private employer with such veterans preference employment policy to establish eligibility for the preference.

Sec. 2. K.S.A. 48-517 is hereby amended to read as follows: 48-517.

(a) Any person *employed in the state of Kansas* who is called or ordered to *state active duty* by ~~the this state, or any other state,~~ whether such person is a member of the Kansas *army* national guard, Kansas air national guard, the Kansas state guard or other military force of this state, *or any other state*, and who gave notice thereof to the person's employer, upon satisfactory performance of and release and return from such military duty or recovery from disease or injury resulting ~~therefrom~~ *from such military duty*, under honorable conditions, shall be reinstated in or restored to the position of employment, except a temporary position, which the person held at the time the person was called to *state active duty*. The person shall report to the person's place of employment within 72 hours after release from duty or recovery from disease or injury resulting ~~therefrom~~ *from such military duty*, as the case may be, and the person's employer or the employer's successor in interest, whether an agency of the state, a political subdivision of the state or a private employer, shall reinstate or restore the person in the same position which the person left at the time of the person's call to duty at no less compensation than that which the person was receiving at the time of the person's call to duty or to a position of like seniority, status and pay. However, if the person is not qualified to perform the duties of the same position by reason of disability sustained during the person's call to duty but is qualified to perform another position in the employ of the employer or the employer's successor, the employer or the employer's successor in interest shall employ such person in another position, the duties of which the person is qualified to perform, that will provide like seniority, status and pay or the nearest approximation thereof consistent with the circumstances of the case. Any person called to *state active duty* shall receive, upon release ~~under honorable conditions~~ *from state active duty*, documentation of ~~honorable~~ *such person's* service to ~~the this state or any other state, as provided by the adjutant general~~ *in a memorandum certified by such person's commanding officer*.

(b) Any person who is restored to the person's position in accordance with the provisions of subsection (a) shall be considered as having been on temporary leave of absence during the period for which the person is called to *state active duty*, shall be restored without loss of seniority, shall be entitled to participate in any benefits offered by the employer pursuant to established rules and practices relating to employees on leave of absence in effect with the employer at the time the person was called to

duty as provided ~~herein~~ *in this section* and shall not be discharged from the person's position without cause within one year after restoration to the position.

(c) It is understood and declared to be the intent of this section that any person who is restored to a position in accordance with the provisions of subsections (a) and (b) shall be restored in such manner as to give the person such status in the person's employment as the person would have enjoyed if the person had continued in such employment continuously from the time of the person's answering the call to state *active* duty until the time of the person's restoration to such employment.

(d) An application on behalf of a person claiming to be entitled to any right or benefit under this section may be made to the attorney general. If the attorney general is reasonably satisfied that the person is entitled to the right or benefit sought, the attorney general may appear on behalf of and act as attorney for the person on whose behalf the application is submitted and may commence an action in the district court of the county for appropriate relief for the person. The district court of the county where the employer of a person claiming a right or benefit under this section, or the successor in interest to such employer, maintains a place of business shall have jurisdiction of any action filed by or on behalf of such person. If the court determines that the employer or the employer's successor in interest has failed to comply with the provisions of this section, the court may order the employer or the employer's successor in interest to: (1) Comply with the provisions of this section; and (2) compensate the person for any loss of wages or benefits suffered by reason of the failure of the employer or employer's successor in interest to comply with the provisions of this section. In addition, the court may order the employer or the employer's successor in interest to pay the person an additional amount equal to the amount authorized by subsection (d)(2) if the court determines that the employer or the employer's successor in interest willfully failed to comply with the provisions of this section. No fees or court costs shall be taxed against any person commencing an action under this subsection. The employer or the employer's successor in interest shall be deemed the only necessary party defendant to any such action.

(e) In any case in which two or more persons who are entitled to be restored to a position under the provisions of this section or of any law relating to similar reemployment or reinstatement benefits left the same position in order to enter ~~the state~~ *this state's or any other state's* call to *active* duty, the person who left the position first shall have the prior right to be restored thereto, without prejudice to the reemployment rights of the other person or persons to be restored.

(f) Upon request, the adjutant general shall provide technical assistance to any person claiming to be entitled to any right or benefit under this section *during the course of an investigation subsequent to a claim*

as provided in subsection (d) and, when appropriate, to the employer or employer's successor in interest. The adjutant general shall *place an investigating officer on state active duty orders* to investigate the person's claim and attempt to resolve the claim by making reasonable efforts to ensure that the employer or employer's successor in interest complies with the provisions of this section. If such efforts are not successful, the adjutant general shall notify the person of the results of the investigation and the person's entitlement to proceed as provided by subsection (d).

(g) (1) An employer or an employer's successor in interest shall not be required to reemploy a person under this section if:

(A) The circumstances of the employer or the employer's successor in interest have so changed as to make reemployment of the person impossible or unreasonable;

(B) reemployment of the person would impose an undue hardship on the employer or the employer's successor in interest; or

(C) the employment from which the person leaves to serve in military duty is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

(2) As used in subsection ~~(f)~~(g)(1), "undue hardship" means actions requiring significant difficulty or expense, when considered in light of:

(A) The nature and cost of the action needed under this act;

(B) the overall financial resources of the facility or facilities involved in the provision of the action, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the employer or the employer's successor in interest; the overall size of the business of the employer or the employer's successor in interest with respect to the number of employees, the number, type and location of its facilities; and

(D) the type of operation or operations of the employer or the employer's successor in interest, including the composition, structure and functions of the work force of such employer or successor in interest, the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer or successor in interest.

New Sec. 3. (a) (1) A current member of the armed forces of the United States or the member's spouse or dependent child who is enrolled or has been accepted for admission at a postsecondary educational institution as a postsecondary student shall be deemed to be a resident of the state for the purpose of tuition and fees for attendance at such postsecondary educational institution.

(2) A person is entitled to pay tuition and fees at an institution of higher education at the rates provided for Kansas residents without regard to the length of time the person has resided in the state if the person files

a letter of intent to establish residence in the state with the postsecondary educational institution at which the person intends to register, lives in the state while attending the postsecondary educational institution and the person is eligible for benefits under the federal post-9/11 veterans educational assistance act of 2008, 38 U.S.C. § 3301 et seq., or any other federal law authorizing educational benefits for veterans.

(b) As used in this section:

(1) “Armed forces” means the army, navy, marine corps, air force, coast guard, Kansas army or air national guard or any branch of the military reserves of the United States;

(2) “postsecondary educational institution” means the same as provided in K.S.A. 74-3201b, and amendments thereto; and

(3) “veteran” means a person who has been separated from the armed forces and was honorably discharged or received a general discharge under honorable conditions.

(c) This section shall be part of and supplemental to chapter 48 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 4. K.S.A. 2014 Supp. 76-729 is hereby amended to read as follows: 76-729. (a) (1) Persons enrolling at the state educational institutions under the control and supervision of the state board of regents who, if such persons are adults, have been domiciliary residents of the state of Kansas or, if such persons are minors, whose parents have been domiciliary residents of the state of Kansas for at least 12 months prior to enrollment for any term or session at a state educational institution are residents for fee purposes. A person who has been a resident of the state of Kansas for fee purposes and who leaves the state of Kansas to become a resident of another state or country shall retain status as a resident of the state of Kansas for fee purposes if the person returns to domiciliary residency in the state of Kansas within 60 months of departure. All other persons are nonresidents of the state of Kansas for fee purposes.

(2) ~~The provisions of this subsection shall be applicable to any person enrolling at a state educational institution from and after July 1, 2006. Any person who (A) qualifies as a resident of the state of Kansas for fee purposes under the provisions of this subsection, (B) attended a state educational institution during academic year 2006-2007, and (C) paid fees as if such person was not a resident of the state of Kansas, may apply to such state educational institution to be reimbursed in an amount equal to the difference between the amount the person paid in fees and the amount the person would have paid if such person had been treated as a resident of the state of Kansas. Such reimbursement shall be paid by the state educational institution at which such person was enrolled during academic year 2006-2007.~~

(3) ~~The provisions of this subsection shall not apply to a person who~~

is deemed a resident for fee purposes pursuant to K.S.A. 2014 Supp. 76-731a, and amendments thereto.

(b) The state board of regents may authorize the following persons, or any class or classes thereof, and their spouses and dependents to pay an amount equal to resident fees:

(1) Persons who are employees of a state educational institution;

~~(2) persons who are in military service;~~

~~(3) persons who are domiciliary residents of the state, who were in active military service prior to becoming domiciliary residents of the state, who were present in the state for a period of not less than two years during their tenure in active military service, whose domiciliary residence was established in the state within 30 days of discharge or retirement from active military service under honorable conditions, but whose domiciliary residence was not timely enough established to meet the residence duration requirement of subsection (a);~~

~~(4) persons having special domestic relations circumstances;~~

~~(5)~~(3) persons who have lost their resident status within six months of enrollment;

~~(6)~~(4) persons who are not domiciliary residents of the state, who have graduated from a high school accredited by the state board of education within six months of enrollment, who were domiciliary residents of the state at the time of graduation from high school or within 12 months prior to graduation from high school, and who are entitled to admission at a state educational institution pursuant to K.S.A. 72-116, and amendments thereto;

~~(7)~~(5) persons who are domiciliary residents of the state, whose domiciliary residence was established in the state for the purpose of accepting, upon recruitment by an employer, or retaining, upon transfer required by an employer, a position of full-time employment at a place of employment in Kansas, but the domiciliary residence of whom was not timely enough established to meet the residence duration requirement of subsection (a), and who are not otherwise eligible for authorization to pay an amount equal to resident fees under this subsection;

~~(8) persons who have graduated from a high school accredited by the state board of education within six months of enrollment and who, at the time of graduation from such a high school or while enrolled and in attendance at such a high school prior to graduation therefrom, were dependents of a person in military service within the state; if the person, whose dependent is eligible for authorization to pay an amount equal to resident fees under this provision, does not establish domiciliary residence in the state upon retirement from military service, eligibility of the dependent for authorization to pay an amount equal to resident fees shall lapse; and~~

~~(9) persons who have retired or have been honorably discharged from military service, had a permanent change of station order for active duty~~

~~in Kansas during such military service and live in Kansas at the time of enrollment.~~

~~(c)-(1) The state board of regents shall authorize the following class of persons to pay an amount equal to resident fees: Any dependent or spouse of a person in military service who is reassigned from Kansas to another duty station so long as such dependent or spouse continues to reside in Kansas.~~

~~(2) So long as a person remains continuously enrolled, exclusive of summer sessions, a person who qualifies to pay resident fees by virtue of being a spouse or dependent of a person in military service shall not lose such status because of a divorce or the death of a spouse. Pursuant to section 1, and amendments thereto, a veteran, an active duty member of the armed forces and the spouse and dependent child of such veteran or active duty member of the armed forces shall be deemed residents of the state for fee purposes.~~

~~(d) As used in this section:~~

~~(1) "Parents" means and includes natural parents, adoptive parents, stepparents, guardians and custodians.~~

~~(2) "Guardian" has the meaning ascribed thereto by K.S.A. 59-3051, and amendments thereto.~~

~~(3) "Custodian" means a person, agency or association granted legal custody of a minor under the revised Kansas code for care of children.~~

~~(4) "Domiciliary resident" means a person who has present and fixed residence in Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.~~

~~(5) "Full-time employment" means employment requiring at least 1,500 hours of work per year.~~

~~(6) "Dependent" means: (A) A birth child, adopted child or stepchild;~~

~~or (B) any child other than the foregoing who is actually dependent in whole or in part on the person in military service and who is related to such individual by marriage or consanguinity.~~

~~(7) "Military service" means: (A) Any active service in any armed service of the United States; or (B) membership in the Kansas army or air national guard.~~

~~(8) "Academic year" means the twelve-month period ending June 30.~~

Sec. 5. K.S.A. 2014 Supp. 12-4415 is hereby amended to read as follows: 12-4415. (a) In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the city attorney shall consider at least the following factors among all factors considered:

(1) The nature of the crime charged and the circumstances surrounding it;

(2) any special characteristics or circumstances of the defendant;

(3) whether the defendant is a first-time offender of an alcohol related offense and if the defendant has previously participated in diversion, according to the certification of the division of vehicles of the state department of revenue;

(4) whether there is a probability that the defendant will cooperate with and benefit from diversion;

(5) *whether there is a probability that the defendant committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America;*

(6) *if subsection (a)(5) applies to the defendant, whether there is a probability that the defendant will cooperate with and benefit from inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the United States department of veterans affairs or the Kansas national guard with the consent of the defendant, as a condition of diversion;*

~~(5)~~ (7) whether the available diversion program is appropriate to the needs of the defendant;

~~(6)~~ (8) the impact of the diversion of the defendant upon the community;

~~(7)~~ (9) recommendations, if any, of the involved law enforcement agency;

~~(8)~~ (10) recommendations, if any, of the victim;

~~(9)~~ (11) provisions for restitution; and

~~(10)~~ (12) any mitigating circumstances.

(b) A city attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an alcohol related offense if the defendant:

(1) Has previously participated in diversion of an alcohol related offense;

(2) has previously been convicted of or pleaded nolo contendere to an alcohol related offense in this state or has previously been convicted of or pleaded nolo contendere to a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto, or of a law of another state, or of a political subdivision thereof, which prohibits the acts prohibited by those statutes; or

(3) during the time of the alleged alcohol related offense was involved in a motor vehicle accident or collision resulting in personal injury or death.

(c) *“Major depressive disorder,” “polytrauma,” “post-traumatic stress disorder” and “traumatic brain injury” shall mean the same as such terms are defined in K.S.A. 2014 Supp. 21-6630, and amendments thereto.*

Sec. 6. K.S.A. 2014 Supp. 21-6630 is hereby amended to read as follows: 21-6630. (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~~ *an injury*, including *major depressive disorder, polytrauma, post-traumatic stress disorder, stemming from or traumatic brain injury, connected to service in a combat zone in the United States armed forces of the United States of America.* 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 injury; and~~

~~(4) (3) such mental illness was caused or exacerbated by events occurring during such defendant's service in a combat zone injury was connected to service in a combat zone in the armed forces of the United States of America.~~

(b) (1) Except as provided in subsection (b)(2), if the court determines 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 *United States department of veterans affairs* or the Kansas national guard ~~with the consent of the defendant, if the defendant is eligible for and consents to such treatment.~~

(2) If the court determines that such defendant meets the criteria provided in subsection (a), *such defendant is ineligible for treatment pursuant to subsection (b)(1)* and such defendant meets the requirements established in K.S.A. 2014 Supp. 21-6824, and amendments thereto, the provisions of K.S.A. 2014 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. 2014 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. 2014 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) “Major depressive disorder” and “post-traumatic stress disorder” means posttraumatic stress disorder as mean the same as such terms are 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 defendant’s service in one or more combat zones.~~

(2) *“Polytrauma” means injury to multiple body parts and organ systems that occurred as a result of events during the defendant’s service in one or more combat zones.*

(3) *“Traumatic brain injury” means injury to the brain caused by physical trauma that occurred as a result of events during the defendant’s service in one or more combat zones.*

(e) This section shall be a part of and supplemental to the Kansas criminal code.

Sec. 7. K.S.A. 2014 Supp. 21-6815 is hereby amended to read as follows: 21-6815. (a) Except as provided in subsection (b), the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines unless the judge finds substantial and compelling reasons to impose a departure sentence. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) Subject to the provisions of ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-6817(b), and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.

(c) (1) Subject to the provisions of subsections (c)(3) and (e), the following nonexclusive list of mitigating factors may be considered in de-

termining whether substantial and compelling reasons for a departure exist:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor may be considered when it is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(F) *The offender committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America. As used in this subsection, "major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" shall mean the same as such terms are defined in K.S.A. 2014 Supp. 21-6630, and amendments thereto.*

(2) Subject to the provisions of subsection (c)(3), the following non-exclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim or the offense was motivated by the defendant's belief or perception, entirely or in part, of the race, color, religion, ethnicity, national origin or sexual orientation of the victim whether or not the defendant's belief or perception was correct.

(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.

(E) The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to:

(i) Commit any person felony;

(ii) assist in avoiding detection or apprehension for commission of any person felony; or

(iii) attempt, conspire or solicit, as defined in K.S.A. 2014 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, to commit any person felony.

That the defendant did not know the age of the individual under 16 years of age shall not be a consideration.

(F) The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

(i) "Crime of extreme sexual violence" is a felony limited to the following:

(a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;

(b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization;

(c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age;

(d) aggravated human trafficking, as defined in ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age; or

(e) commercial sexual exploitation of a child, as defined in K.S.A. 2014 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

(G) The defendant was incarcerated during the commission of the offense.

(H) The crime involved two or more participants in the criminal con-

duct, and the defendant played a major role in the crime as the organizer, leader, recruiter, manager or supervisor.

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(d) In determining aggravating or mitigating circumstances, the court shall consider:

- (1) Any evidence received during the proceeding;
- (2) the presentence report;
- (3) written briefs and oral arguments of either the state or counsel for the defendant; and
- (4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

(e) Upon motion of the prosecutor stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense, the court may consider such mitigation in determining whether substantial and compelling reasons for a departure exist. In considering this mitigating factor, the court may consider the following:

- (1) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the prosecutor's evaluation of the assistance rendered;
- (2) the truthfulness, completeness and reliability of any information or testimony provided by the defendant;
- (3) the nature and extent of the defendant's assistance;
- (4) any injury suffered, or any danger or risk of injury to the defendant or the defendant's family resulting from such assistance; and
- (5) the timeliness of the defendant's assistance.

Sec. 8. K.S.A. 2014 Supp. 22-2908 is hereby amended to read as follows: 22-2908. (a) In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the county or district attorney shall consider at least the following factors among all factors considered:

- (1) The nature of the crime charged and the circumstances surrounding it;
- (2) any special characteristics or circumstances of the defendant;
- (3) whether the defendant is a first-time offender and if the defendant has previously participated in diversion, according to the certification

of the Kansas bureau of investigation or the division of vehicles of the department of revenue;

(4) whether there is a probability that the defendant will cooperate with and benefit from diversion;

(5) whether the available diversion program is appropriate to the needs of the defendant;

(6) *whether there is a probability that the defendant committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America;*

(7) *if subsection (a)(6) applies to the defendant, whether there is a probability that the defendant will cooperate with and benefit from inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the United States department of veterans affairs or the Kansas national guard with the consent of the defendant, as a condition of diversion;*

~~(6)~~ (8) the impact of the diversion of the defendant upon the community;

~~(7)~~ (9) recommendations, if any, of the involved law enforcement agency;

~~(8)~~ (10) recommendations, if any, of the victim;

~~(9)~~ (11) provisions for restitution; and

~~(10)~~ (12) any mitigating circumstances.

(b) A county or district attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint if:

(1) The complaint alleges a violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto, and the defendant: (A) Has previously participated in diversion upon a complaint alleging a violation of that statute or an ordinance of a city in this state which prohibits the acts prohibited by that statute; (B) has previously been convicted of or pleaded nolo contendere to a violation of that statute or a violation of a law of another state or of a political subdivision of this or any other state, which law prohibits the acts prohibited by that statute; or (C) during the time of the alleged violation was involved in a motor vehicle accident or collision resulting in personal injury or death;

(2) the complaint alleges that the defendant committed a class A or B felony or for crimes committed on or after July 1, 1993, an off-grid crime, a severity level 1, 2 or 3 felony for nondrug crimes, a drug severity level 1 or 2 felony for drug crimes committed on or after July 1, 1993, but prior to July 1, 2012, or a drug severity level 1, 2 or 3 felony committed on or after July 1, 2012; or

(3) the complaint alleges a domestic violence offense, as defined in K.S.A. 2014 Supp. 21-5111, and amendments thereto, and the defendant

has participated in two or more diversions in the previous five year period upon complaints alleging a domestic violence offense.

(c) A county or district attorney may enter into a diversion agreement in lieu of further criminal proceedings on a complaint for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, if such diversion carries the same penalties as the conviction for the corresponding violations. If the defendant has previously participated in one or more diversions for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, then each subsequent diversion shall carry the same penalties as the conviction for the corresponding violations.

(d) *As used in this section, “major depressive disorder,” “poly-trauma,” “post-traumatic stress disorder” and “traumatic brain injury” shall mean the same as such terms are defined in K.S.A. 2014 Supp. 21-6630, and amendments thereto.*

Sec. 9. K.S.A. 2014 Supp. 48-3406 is hereby amended to read as follows: 48-3406. (a) For the purposes of this section:

(1) ~~“Licensing body” has the meaning ascribed thereto in K.S.A. 74-146, and amendments thereto means an official, agency, board or other entity of the state which authorizes individuals to practice a profession in this state and issues a license, registration, certificate, permit or other authorization to an individual so authorized;~~

(2) ~~“military service servicemember” means a member of the army, navy, marine corps, air force, air or army national guard of any state, coast guard or any branch of the military reserves of the United States; and~~

(3) ~~“military service member” means a member who entered into military service and separated from such military service with an honorable discharge or a general discharge under honorable conditions; and~~

(4) “military spouse” means the spouse of an individual who is currently in active service in any branch of the armed forces of the United States.

(b) Notwithstanding any other provision of law, any licensing body shall:

(1) Upon submission of a completed application, issue a license, *registration or certification* to a nonresident military spouse, so that the nonresident military spouse may lawfully practice the person’s occupation; and

(2) upon submission of a completed application within six months following release from military service, issue a license, *registration or certification* to a military servicemember with an honorable discharge so that the military servicemember may lawfully practice the ~~person’s~~ *military servicemember’s* occupation.

(c) A military servicemember with an honorable discharge or non-

resident military spouse shall receive a license, *registration or certification* under subsection (b) of this section:

(1) Pursuant to applicable licensure, *registration or certification* by endorsement, reinstatement or reciprocity statutes of the licensing body of this state for the profession license, *registration or certification within 60 days from the date a complete application was submitted*; or

(2) if the professional practice act does not have licensure, *registration or certification* by endorsement, reinstatement or reciprocity statutes, then, at the time of application, the military servicemember or non-resident military spouse:

(A) Holds a current license, *registration or certification* in another state, district or territory of the United States with licensure, *registration or certification* requirements that the licensing body determines are equivalent to those established by the licensing body of this state;

(B) has not committed an act in any jurisdiction that would have constituted grounds for the limitation, suspension or revocation or that the applicant has never been censured or had other disciplinary action taken or had an application for licensure, *registration or certification* denied or refused to practice an occupation for which the military servicemember or nonresident military spouse seeks licensure, *registration or certification*;

(C) has not been disciplined by a licensing, *registering, certifying* or *other* credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure or disciplinary proceeding conducted by a licensing, *registering, certifying* or *other* credentialing entity in another jurisdiction nor has surrendered their membership on any professional staff in any professional association or society or faculty for another state or ~~licensing~~ jurisdiction while under investigation or to avoid adverse action for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action in a Kansas practice act;

(D) pays any fees required by the licensing body of this state; and

(E) submits with the application a signed affidavit stating that the application information, including necessary prior employment history, is true and accurate. Upon receiving such affidavit, the licensing body shall issue the license, *registration or certification within 60 days from the date a complete application was submitted*, to the military servicemember or nonresident military spouse on a probationary basis, but may revoke the license, *registration or certification* at any time if the information provided in the application is found to be false. Any probationary license issued under this ~~section~~ *subsection* to a military servicemember or non-resident military spouse shall not exceed ~~three~~ six months.

(d) Any person who has not been in the active practice of the occupation during the two years preceding the application for which the applicant seeks a license, *registration or certification* may be required to complete such additional testing, training, mentoring, monitoring or ed-

ucation as the Kansas licensing body may deem necessary to establish the applicant's present ability to practice with reasonable skill and safety.

(e) A nonresident military spouse licensed, *registered or certified* under this section shall be entitled to the same rights and subject to the same obligations as are provided by the licensing body for Kansas residents, except that revocation or suspension of a nonresident military spouse's license, *registration or certificate* in the nonresident military spouse's state of residence or any jurisdiction in which the nonresident military spouse held ~~licensure~~ *a license, registration or certificate* shall automatically cause the same revocation or suspension of such nonresident military spouse's license, *registration or certificate* in Kansas. No hearing shall be granted to a nonresident ~~licensee~~ *military spouse* where ~~the~~ *such nonresident military spouse's license, registration or certificate* is subject to such automatic revocation or suspension except for the purpose of establishing the fact of revocation or suspension of the nonresident military spouse's license, *registration or certificate* by the nonresident military spouse's state of residence.

(f) In the event the licensing body determines that the license, *registration or certificate* currently held by the military servicemember or *nonresident military spouse* under subsection (c)(2)(A) is not equivalent to those issued by the licensing body of this state, the licensing body may issue a temporary permit for a limited period of time to allow the military servicemember or *nonresident military spouse* to lawfully practice the ~~person's~~ *military servicemember's or nonresident military spouse's* occupation while completing any specific requirements that are required in this state for licensure, *registration or certification* that ~~were~~ *was* not required in the state, district or territory of the United States in which the military servicemember or *nonresident military spouse* was licensed ~~or, registered, certified or otherwise credentialed.~~

(g) A licensing ~~board~~ *body* may grant ~~certification,~~ licensure, *registration, certification* or a temporary permit to any person who meets the requirements under this section but was separated from such military service *under less than honorable conditions or with a general discharge under honorable conditions.*

(h) Each licensing body may adopt rules and regulations necessary to implement and carry out the provisions of this section.

(i) This section shall not apply to the practice of law or the regulation of attorneys pursuant to K.S.A. 7-103, and amendments thereto.

Sec. 10. K.S.A. 48-517 and K.S.A. 2014 Supp. 12-4415, 21-6630, 21-6815, 22-2908, 48-3406 and 76-729 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 77

Senate Substitute for HOUSE BILL No. 2095

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; employment after retirement; special provisions for certain retirants; certain duties of the joint committee on pensions, investments and benefits; enacting the Kansas deferred retirement option program act; providing terms, conditions, requirements, benefits and contributions related thereto; relating to member election; Kansas highway patrol affiliation; interest credits; account distribution; amending K.S.A. 46-2201 and K.S.A. 2014 Supp. 74-4914 and 74-4937 and repealing the existing sections.

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

Section 1. K.S.A. 46-2201 is hereby amended to read as follows: 46-2201. (a) There is hereby created the joint committee on pensions, investments and benefits which shall be composed of five senators and eight members of the house of representatives. The five senate members shall be the chairperson of the standing committee on ways and means of the senate, or a member of such committee appointed by the chairperson, two members appointed by the president and two members appointed by the minority leader. The eight representative members shall be the chairperson of the standing committee on appropriations of the house of representatives, or a member of such committee appointed by the chairperson, four members appointed by the speaker and three members appointed by the minority leader.

(b) All members of the joint committee on pensions, investments and benefits shall serve for terms ending on the first day of the regular legislative session in odd-numbered years. The chairperson and vice-chairperson serving on the effective date of this act will continue to serve in such capacities through June 30, 1998. On and after July 1, 1998, and until the first day of the 1999 regular legislative session, the chairperson shall be one of the senate members of the joint committee selected by the president and the vice-chairperson shall be one of the representative members selected by the speaker. Thereafter, on and after the first day of the regular legislative session in odd-numbered years, the chairperson shall be one of the representative members of the joint committee selected by the speaker and the vice-chairperson shall be one of the senate members selected by the president and on and after the first day of the regular legislative session in even-numbered years, the chairperson shall be one of the senate members of the joint committee selected by the president and the vice-chairperson shall be one of the representative members of the joint committee selected by the speaker. The chairperson and vice-chairperson of the joint committee shall serve in such capacities until the first day of the regular legislative session in the ensuing year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(c) The joint committee on pensions, investments and benefits shall meet at any time and at any place within the state on call of the chairperson. Members of the joint committee shall receive compensation and travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of such committee authorized by the legislative coordinating council.

(d) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee on pensions, investments and benefits.

(e) The joint committee on pensions, investments and benefits may introduce such legislation as deemed necessary in performing such committee's functions.

(f) The joint committee on pensions, investments and benefits shall:

(1) Monitor, review and make recommendations regarding investment policies and objectives formulated by the board of trustees of the Kansas public employees retirement system;

(2) review and make recommendations relating to benefits for members under the Kansas public employees retirement system;

(3) consider and make recommendations to the standing committee of the senate specified by the president of the senate relating to the confirmation of members of the board of trustees of the Kansas public employees retirement system appointed pursuant to K.S.A. 74-4905, and amendments thereto. The information provided by the Kansas bureau of investigation or other criminal justice agency pursuant to ~~subsection (h) of K.S.A. 74-4905(h)~~, and amendments thereto, relating to the confirmation of members of the board to the standing committee of the senate specified by the president shall be forwarded by the Kansas bureau of investigation or such other criminal justice agency to such joint committee for such joint committee's consideration and other than conviction data, shall be confidential and shall not be disclosed except to members and employees of the joint committee as necessary to determine qualifications of such member. The committee, in accordance with K.S.A. 75-4319, and amendments thereto, shall recess for a closed or executive meeting to receive and discuss information received by the committee pursuant to this subsection; ~~and~~

(4) review and make recommendations relating to the inclusion of city and county correctional officers as eligible members of the Kansas police and firemen's retirement system; *and*

(5) *review reports and approve or deny appeals regarding working after retirement exceptions pursuant to K.S.A. 74-4914 and 74-4937, and amendments thereto. The joint committee may appoint a subcommittee to carry out the provisions of this subsection.*

Sec. 2. K.S.A. 2014 Supp. 74-4914 is hereby amended to read as

follows: 74-4914. (1) The normal retirement date for a member of the system 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 60 days and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) No retirant shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b, and amendments thereto, and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(5) *Except as provided in subsection (7)*, on or after July 1, 2006, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, for any retirant who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under ~~subsection~~

~~(a)~~ of K.S.A. 72-5410(a), and amendments thereto, with such retirant, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant who retired on or after July 1, 1988, is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$20,000 or more in any one such calendar year, *or \$25,000 or more in any one calendar year between July 1, 2016, and July 1, 2021*, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under ~~subsection (a)~~ of K.S.A. 72-5410(a), and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any participating employer who contracts services with any such third-party entity to fill a position covered under ~~subsection (a)~~ of K.S.A. 72-5410(a), and amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this act which relate to positions filled with a retirant or employment of a retirant by a third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection. Any retirant employed by a participating employer or a third-party entity as provided in this subsection shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature prior to January 8, 2000. The provisions of this subsection shall not apply to any other elected officials prior to the term of office of such elected

official which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official, *except an elected city or county officer as further provided in this subsection*, on and after the term of office of such other elected official which commences on or after July 1, 2000. *Notwithstanding any provisions of law to the contrary, when an elected city or county officer is retired under the provisions of subsection (1) or (4) of this section and is paid an amount of compensation of \$25,000 or more in any one calendar year between July 1, 2016, and July 1, 2021, such officer may receive such officer's salary, and still be entitled to receive such officer's retirement benefit pursuant to the provisions of K.S.A. 74-4915 et seq., and amendments thereto.* Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to ~~subsections (a), (b), (c) and (d)~~ of K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$20,000 or more in any one calendar year, the member may continue to receive any amount provided in ~~subsections (b) and (d)~~ of K.S.A. 46-137a(b) and (d), and amendments thereto, and still be entitled to receive such member's retirement benefit. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in ~~subsection (b)~~ of K.S.A. 76-12a01(b) or ~~subsection (f)~~ of K.S.A. 38-2302(f), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment.

(6) For purposes of this section, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.

(7) (a) *Except as provided in K.S.A. 74-4937(3), (4), or (5), and amendments thereto, and the provisions of this subsection, commencing*

*July 1, 2016, and ending July 1, 2021, any retirant who is employed or appointed in or to any position by a participating employer or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not receive any retirement benefit for any month in any calendar year in which the retirant receives compensation in an amount equal to \$25,000 or more, pursuant to this subsection. The provisions of this subsection shall apply to members of the legislature.*

*(b) The provisions of this subsection shall not apply to retirants that are:*

*(i) Licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or 38-2302(f), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation and the statutorily prescribed employee contribution during any such period of employment;*

*(ii) employed by a school district in a position as provided in K.S.A. 74-4937(3), (4) or (5), and amendments thereto;*

*(iii) certified law enforcement officers employed by the law enforcement training center. Such law enforcement officers shall receive their benefits notwithstanding this subsection. The law enforcement training center shall pay to the system the actuarial determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment;*

*(iv) members of the Kansas police and firemen's retirement system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, or members of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and amendments thereto;*

*(v) employed as substitute teachers or officers, employees or appointees of the legislature; and*

*(vi) employed by, or have accepted employment from, a participating employer prior to May 1, 2015. Any break in continuous employment by a retirant or move to a different position by a retirant during the effective period of this subsection shall be deemed new employment and shall subject the retirant to the provisions of this subsection.*

*(c) The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving*

*benefits. No retirant shall receive credit for service while employed under the provisions of this subsection.*

*(d) A participating employer may employ a retirant without regard to the compensation limitation in this subsection for a period of one calendar year or one school year, as the case may be, if the following requirements are met:*

*(i) The employer certifies to the board that the position being filled has been vacated due to an unexpected emergency or the employer has been unsuccessful in filling the position;*

*(ii) the employer pays to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%;*

*(iii) the employer maintains documentation of its efforts to fill the position with a non-retirant and provides such documentation to the joint committee on pensions, investments and benefits upon request of the committee.*

*(e) An employer may submit a written appeal to the joint committee on pensions, investments and benefits to extend the exception provided for in subsection (7)(d) by one year. Such written appeal shall include documentation of the employer's efforts to fill the position with a non-retirant. Granting or denial of such extension shall be at the sole discretion of the committee.*

*(f) On July 1, 2016, and at least every five years thereafter, the joint committee on pensions, investments and benefits shall study the issue of whether the compensation limitation prescribed in this subsection should be adjusted. The committee shall consider the effect of inflation and data on member retirement benefits and active employee compensation.*

*(g) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.*

Sec. 3. K.S.A. 2014 Supp. 74-4937 is hereby amended to read as follows: 74-4937. (1) The normal retirement date of a member of the system who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto, shall be the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 60 days and the attainment of age 65 or, commencing July 1, 1986, age 65 or age 60 with the completion of 35 years of credited service or at any age with the completion of 40 years of credited service, or commencing July 1, 1993, any alternative normal retirement date already prescribed by law or age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. Each member upon

giving prior notice to the appointing authority and the retirement system may retire on the normal retirement date or the first day of any month thereafter.

(2) Any member who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto, may retire before such member's normal retirement date on the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 60 days and the attainment of age 55 with the completion of 10 years of credited service, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(3) ~~Commencing July 1, 2009~~ *Before July 1, 2017*, the provisions of ~~subsection (5) of K.S.A. 74-4914(5), and amendments thereto, which relate to an earnings limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein shall not apply to retirants who either retired under the provisions of subsection (1) of K.S.A. 74-4914(1), and amendments thereto, related to normal retirement, or, if they retired under the provisions of subsection (4) of K.S.A. 74-4914(4), and amendments thereto, related to early retirement, were retired more than 60 days prior to the effective date of this act~~ *May 28, 2009, and are subsequently hired in a position that requires a license under K.S.A. 72-1388, and amendments thereto, or other provision of law. The provisions of this subsection shall only apply to retirants who retired prior to May 1, 2015.* The provisions of this subsection do not apply to retirants who retired under ~~subsection (4) of K.S.A. 74-4914(4), and amendments thereto, which relates to early retirement prior to age 62.~~ Except as otherwise provided, when a retirant is employed by the same school district or a different school district with which such retirant was employed during the final two years of such retirant's participation or employed by a third-party entity who contracts services with a school district to fill a position as described in this subsection, the participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%. *The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection.* The provisions of this subsection shall not apply to retirants employed as substitute teachers. The provisions of ~~subsection (5) of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not~~

subject to amendment or nullification by act of the legislature. The provisions of this subsection shall expire on ~~July 1, 2015~~ June 30, 2017. After such date the Kansas public employees retirement system and its actuary shall report the experience to the joint committee on pensions, investments and benefits.

(4) (a) *On and after July 1, 2016, a school district may hire a retired licensed professional to fill a special teacher position as defined in K.S.A. 72-962, and amendments thereto, if such retirant is hired not prior to 60 days after such retirant's retirement date without any prearrangement with such school district in the manner prescribed in this subsection. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection.*

(b) *A retirant hired under the provisions of this subsection may continue to receive such retirant's full retirement benefit for a period not to exceed three school years or 36 months, whichever is less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. Such retirant may be employed by such employer for some or all of a school year, and in subsequent school years if the employer is unable to permanently fill the position with active members, so long as the retirant's total term of employment with all employers under this subsection does not exceed 36 months or three school years, whichever is less. After such period, the retirant shall be subject to the provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%. The provisions of this subsection shall not apply to retirants employed as substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as special teachers, except as specifically provided in this subsection.*

(c) *Each school district that uses the provisions of this subsection to hire retirants shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the special teacher positions. Upon request of the joint committee on pensions, investments and benefits, an employer shall provide such documentation to the committee. If the committee finds that an employer has not made sufficient efforts to hire a non-retirant for the position or if the committee finds evidence of*

*prearrangement in violation of this section, the three-year exemption provided pursuant to this subsection may be revoked. The committee shall notify the executive director of the system that a retirant's exemption has been revoked within 30 days of making such a determination.*

*(d) An employer may submit a written appeal to the joint committee on pensions, investments and benefits to extend the exception provided for in this subsection by one year. Such written appeal shall include documentation of the employer's efforts to fill the position with a non-retirant. Granting or denial of such extension shall be at the sole discretion of the committee. The committee shall notify the executive director of the system that a retirant's exemption has been extended within 30 days of making such a determination.*

*(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.*

*(f) The provisions of this subsection shall expire on July 1, 2021.*

*(5) (a) On and after July 1, 2016, a school district may hire a retired licensed professional to fill a non-special teacher position if such retirant is hired not prior to 60 days after such retirant's retirement date without any prearrangement with such school district, and if such school district hires a retirant for a hard-to-fill position in the manner prescribed in this subsection. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection.*

*(b) The state board of education shall annually certify the top five types of licensed positions that are hard to fill. A school district may hire a retirant to fill a hard-to-fill position for some or all of a school year and in subsequent school years if the employer is unable to permanently fill the position with an active member. A retirant first hired under the provisions of this subsection may be retained by an employer even if such retirant's type of position is no longer one of the five types of positions certified by the state board of education. A retirant hired under the provisions of this subsection may continue to receive such retirant's full retirement benefit for a period not to exceed three school years or 36 months, whichever is less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. Such retirant may be employed by such employer for some or all of a school year, and in subsequent school years if the employer is unable to permanently fill the position with active members, so long as the retirant's total term of employment with all employers under this subsection does not exceed 36 months or three school years,*

*whichever is less. After such period, the retirant shall be subject to the provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%. The provisions of this subsection shall not apply to retirants employed as substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection.*

*(c) Each school district that uses the provisions of this subsection to hire retirants for hard-to-fill positions shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the hard-to-fill positions. Upon request of the joint committee on pensions, investments and benefits, a school district shall provide such documentation to the committee. If the committee finds that a school district has not made sufficient efforts to hire a non-retirant for the position or if the committee finds evidence of prearrangement in violation of this section, the three-year exemption provided pursuant to this subsection may be revoked. The committee shall notify the executive director of the system that a retirant's exemption has been revoked within 30 days of making such a determination.*

*(d) An employer may submit a written appeal to the joint committee on pensions, investments and benefits to extend the exception provided for in this subsection by one year. Such written appeal shall include documentation of the employer's efforts to fill the position with a non-retirant. Granting or denial of such extension shall be at the sole discretion of the committee. The committee shall notify the executive director of the system that a retirant's exemption has been extended within 30 days of making such a determination.*

*(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.*

*(f) The provisions of this subsection shall expire on July 1, 2021.*

New Sec. 4. (a) The provisions of sections 4 through 11, and amendments thereto, shall be known and may be cited as the Kansas deferred retirement option program act, and shall be effective on and after January 1, 2016.

(b) The provisions of this act shall be part of and supplemental to the provisions of K.S.A. 74-4901 et seq., and amendments thereto, subject to the limitations contained in this act.

New Sec. 5. (a) As used in this act, unless otherwise provided or the context otherwise requires:

- (1) “Act” means the Kansas deferred retirement option program act;
- (2) “board” means the board of trustees of the Kansas public employees retirement system;
- (3) “DROP” means the deferred retirement option program established by section 6, and amendments thereto;
- (4) “DROP account” means the notional account to which is credited the monthly DROP accrual;
- (5) “DROP period” means the period of time that a member irrevocably elects to participate in the DROP pursuant to section 7, and amendments thereto;
- (6) “member” means a trooper, examiner or officer of the Kansas highway patrol who is eligible to participate in the DROP and who elects to participate in the DROP as provided in this act;
- (7) “monthly DROP accrual” means the amount equal to the monthly retirement benefit that would have been payable to the member had the member terminated service and retired on the day the member elected; and
- (8) “system” means the Kansas police and firemen’s retirement system.

(b) Unless specifically provided in this section or in this act, words and phrases used in this act shall have the meanings ascribed to them as provided under the provisions of K.S.A. 74-4901 et seq. and K.S.A. 74-4951 et seq., and amendments thereto.

New Sec. 6. (a) The board shall establish within the Kansas police and firemen’s retirement system a deferred retirement option program for members. The board shall administer the DROP in compliance with the federal internal revenue code and applicable treasury regulations, including, but not limited to, the incidental benefit and required minimum distribution requirements of section 401(a)(9) of the federal internal revenue code.

(b) The board shall establish a DROP account for each member. Each DROP account shall be credited annually with interest as provided in this subsection. Interest may only be credited in a year in which the actual rate of return on the market value on the investments of the DROP reach the system’s assumed investment rate of return. Such interest credit may not exceed 50% of the actual rate of return, and such interest credit shall not exceed 3%.

New Sec. 7. (a) (1) A member who is appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a, and amendments thereto, may elect to participate in the DROP by making application in such form prescribed by the system at the attainment of age 55 and the completion of 20 years of credited service or

at the completion of 32 years of credited service regardless of the age of such member.

(2) A member who is appointed or employed on or after July 1, 1989, or who made an election pursuant to K.S.A. 74-4955a, and amendments thereto, may elect to participate in the DROP by making application in such form prescribed by the system at the attainment of age 55 and the completion of 20 years of credited service, age 50 and the completion of 25 years of credited service or age 60 with the completion of 15 years of credited service.

(b) A member shall indicate on the application the DROP period such member wishes to participate in the DROP. A member may elect to participate in the DROP for a minimum of three years and may not participate for more than five years from the effective date of the election to participate in the DROP. A member may participate in the DROP only once. An election under this section is a one-time irrevocable election. Once the application is accepted by the system, such member becomes a DROP participant. If a member fails to participate in the DROP for a minimum of three years, all of the member's interest credits shall be forfeited, unless such member retires due to disability as defined in K.S.A. 74-4952, and amendments thereto. A member who remains in active service at the expiration of the member's elected DROP period shall not be eligible for any additional interest credits.

(c) A member who makes an election under this section shall continue in the active service under the Kansas police and firemen's retirement system but shall not earn service credit under K.S.A. 74-4951 et seq., and amendments thereto, after the election's effective date. On and after the effective date of the member's election to participate, such member is ineligible to purchase service credit under K.S.A. 74-4901 et seq., and amendments thereto.

(d) Participation in the DROP by a member does not guarantee continued employment. During a member's participation in the DROP, employer contributions under K.S.A. 74-4967, and amendments thereto, and member contributions under K.S.A. 74-4965, and amendments thereto, shall be made to the retirement system. No member or employer contributions shall be applied to a member's DROP account.

New Sec. 8. (a) For each DROP member, the board shall calculate a monthly DROP accrual. The system shall determine the DROP member's retirement benefit under K.S.A. 74-4958 or 74-4958a, and amendments thereto. In determining the retirement benefit, the system shall use the member's total service credit and final average salary as of the last day of the employer's payroll period immediately prior to the effective date of the member's election to participate in the DROP. Before entering the DROP, a member may elect to have such member's retirement benefit determined under one of the options provided in K.S.A. 74-4964

or 74-4964a, and amendments thereto, in lieu of having it determined in the form stated in K.S.A. 74-4958 or 74-4958a, and amendments thereto, except such member may not elect the lump sum payment option. During the DROP period, an amount equal to the monthly DROP accrual shall be credited to the member's DROP account. The calculation of the monthly DROP accrual will be calculated using the member's age and, if the member elected a joint and survivor option, the age of the beneficiary as of the calendar year which contains the beginning of the DROP period. The monthly DROP accrual shall comply with the requirements of section 401(a)(9) of the federal internal revenue code and treasury regulation § 1.401(a)9-6, Q&A-2(c).

(b) A member shall not receive a monthly retirement benefit, as calculated pursuant to K.S.A. 74-4958 or 74-4958a, and amendments thereto, until termination of such member's DROP participation and commencement of retirement. A DROP member shall not have any claim to any funds in such member's DROP account until such member retires at the termination of such member's DROP participation. Upon terminating DROP participation, a member is entitled to such member's retirement benefit, including any postretirement benefit adjustment for which the member is eligible.

New Sec. 9. (a) A member's participation in the DROP ceases on the occurrence of the earliest of the following:

- (1) Termination of the member's active service with the Kansas highway patrol;
- (2) the last day of the member's elected DROP period that begins on the effective date of the member's election to participate in the DROP;
- (3) retirement due to disability as defined in K.S.A. 74-4952, and amendments thereto; or
- (4) the member's death.

(b) If a member dies before taking a distribution from such member's DROP account, the member's designated beneficiary shall receive a lump-sum payment equal to the member's DROP account balance. If the DROP member has not named a beneficiary for such member's DROP account, the amount in the DROP account shall be paid to the beneficiary of the member's retirement benefit.

New Sec. 10. (a) A member, who satisfies the requirements of this act, shall be entitled to a distribution of such member's DROP account. Such distribution may be through any combination of the following payout options, each of which is subject to the applicable provisions of the federal internal revenue code and the applicable regulations of the internal revenue service:

- (1) A direct rollover to an eligible retirement plan; or
- (2) a lump-sum distribution.
- (b) The board may specify minimum account balances for purposes

of allowing benefit payment options and rollovers in accordance with federal law.

New Sec. 11. The provisions of sections 4 through 11, and amendments thereto, shall expire on January 1, 2020.

Sec. 12. K.S.A. 46-2201 and K.S.A. 2014 Supp. 74-4914 and 74-4937 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 29, 2015.

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## CHAPTER 78

Substitute for HOUSE BILL No. 2224

AN ACT concerning technical professions; amending K.S.A. 2014 Supp. 74-7003 and repealing the existing section.

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

Section 1. K.S.A. 2014 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) “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 *architectural* 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).

(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 requirements 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; *and*

(10) *preparing and providing drawings, specifications and other technical submissions.*

(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).

(l) "License" means a license to practice the technical professions granted under K.S.A. 74-7001 et seq., and amendments thereto.

(m) "Person" means a natural person or business entity.

(n) "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.

(o) “Professional engineer” means a person who is qualified to 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.

(p) (1) “Professional engineering” or “practice of engineering” means 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).

(s) “Professional surveyor” means any person who is engaged in the practice of surveying and who is licensed by the board to practice surveying as provided in K.S.A. 74-7001 et seq., and amendments thereto.

(t) (1) “Professional surveying” or “practice of professional surveying” 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).

(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. 2. K.S.A. 2014 Supp. 74-7003 is hereby repealed.

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

Approved June 2, 2015.

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## CHAPTER 79

Senate Substitute for HOUSE BILL No. 2124

AN ACT concerning cigarettes and tobacco products; relating to smoking; the directory and certification of tobacco product manufacturers; disclosure of information and criminal penalties; amending K.S.A. 50-6a02 and K.S.A. 2014 Supp. 21-6110, 50-6a04, 50-6a07, 50-6a10, 50-6a11, 50-6a16 and 75-5133 and repealing the existing sections.

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

Section 1. K.S.A. 2014 Supp. 21-6110 is hereby amended to read as follows: 21-6110. (a) It shall be unlawful, with no requirement of a culpable mental state, to smoke in an enclosed area or at a public meeting including, but not limited to:

- (1) Public places;
- (2) taxicabs and limousines;
- (3) restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;
- (4) restrooms, lobbies and other common areas in hotels and motels and in at least 80% of the sleeping quarters within a hotel or motel that may be rented to guests;

(5) access points of all buildings and facilities not exempted pursuant to subsection (d); and

(6) any place of employment.

(b) Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.

(c) Notwithstanding any other provision of this section, K.S.A. 2014 Supp. 21-6111 or 21-6112, and amendments thereto, the proprietor or other person in charge of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a medical care facility, may designate a portion of such adult care home, or the licensed long-term care unit of such medical care facility, as a smoking area, and smoking may be permitted within such designated smoking area.

(d) The provisions of this section shall not apply to:

(1) The outdoor areas of any building or facility beyond the access points of such building or facility;

(2) private homes or residences, except when such home or residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto;

(3) a hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 20%;

(4) the gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;

(5) that portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated;

(6) that portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests;

(7) tobacco shops;

(8) a class A or class B club defined in K.S.A. 41-2601, and amendments thereto, which: (A) Held a license pursuant to K.S.A. 41-2606 et seq., and amendments thereto, as of January 1, 2009; and (B) notifies the secretary of health and environment in writing, not later than 90 days

after the effective date of this act, that it wishes to continue to allow smoking on its premises;

(9) a private club in designated areas where minors are prohibited; ~~and~~

(10) any benefit cigar dinner or other cigar dinner of a substantially similar nature that:

(A) Is conducted specifically and exclusively for charitable purposes 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;

(B) is conducted no more than once per calendar year by such organization; and

(C) has been held during each of the previous three years prior to January 1, 2011; *and*

(11) *that portion of a medical or clinical research facility constituting a separately ventilated, secure smoking room dedicated and used solely and exclusively for clinical research activities conducted in accordance with regulatory authority of the United States or the state of Kansas, as determined by the director of alcoholic beverage control of the department of revenue.*

Sec. 2. K.S.A. 50-6a02 is hereby amended to read as follows: 50-6a02. As used in this act:

(a) “Adjusted for inflation” means increased in accordance with the formula for inflation adjustment set forth in exhibit C to the master settlement agreement.

(b) “Affiliate” means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms “owns,” “is owned” and “ownership” mean ownership of an equity interest, or the equivalent thereof, of 10% or more, and the term “person” means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(c) “Allocable share” means allocable share as that term is defined in the master settlement agreement.

(d) “Cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use and consists of or contains: (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco; ~~or~~ (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in ~~clause (1) of this subsection~~ (d)(1). The term “cigarette” includes “roll-

your-own” (i.e., any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of “cigarette,” 0.09 ounces of “roll-your-own” tobacco shall constitute one individual “cigarette.”

(e) “Master settlement agreement” means the settlement agreement (and related documents) entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers.

(f) “Qualified escrow fund” means an escrow arrangement with a federally or state chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds’ principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds’ principal except as consistent with ~~subsection (b)(2) of K.S.A. 50-6a03(b)(2),~~ *and amendments thereto.*

(g) “Released claims” means released claims as that term is defined in the master settlement agreement.

(h) “Releasing parties” means releasing parties as that term is defined in the master settlement agreement.

(i) “Tobacco product manufacturer” means an entity that after the date of enactment of this act directly (and not exclusively through any affiliate):

(1) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(2) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(3) becomes a successor of an entity described in paragraph (1) or (2). The term “tobacco product manufacturer” shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of ~~parts (1)-(3) of subsection (i)(1) through (3) above.~~

(j) “Units sold” means, *with respect to a particular tobacco product manufacturer for a particular year,* the number of individual cigarettes sold in the state, *including, without limitation, any cigarettes sold on any*

*qualified tribal land within the state*, by the applicable tobacco product manufacturer ~~(whether directly or through a distributor, retailer or similar intermediary or intermediaries)~~, during the year in question, ~~as measured by excise taxes collected by the state on packs (or “roll-your-own” tobacco containers) bearing the excise tax stamp of the state for which the state has the authority under federal law to impose excise or a similar tax or to collect escrow deposits, regardless of whether such taxes were imposed or collected by the state.~~ The department of revenue *and the attorney general* shall promulgate such rules and regulations as are necessary to ascertain the ~~amount~~ *number* of state excise tax paid on the ~~cigarettes~~ *units sold* of such tobacco product manufacturer for each year.

Sec. 3. K.S.A. 2014 Supp. 50-6a04 is hereby amended to read as follows: 50-6a04. (a) No person may:

(1) Affix, or cause to be affixed, tax indicia to a package of cigarettes, or otherwise pay the tax due upon such cigarettes, of a tobacco product manufacturer brand family not included in the directory; or

(2) sell, offer, possess for sale or import ~~for personal consumption in~~ *into* this state, cigarettes of a tobacco product manufacturer brand family not included in the directory.

(b) (1) Not later than July 1, 2009, the attorney general shall develop a directory, to be posted on the attorney general's website. Except as otherwise provided, the directory shall list all tobacco product manufacturers and brand families of such tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection (c).

(2) The attorney general shall not include or retain in the directory any non-participating manufacturer, or non-participating manufacturer's brand family, that has failed to provide the required certification, or whose certification the attorney general determines is not in compliance with subsection (c), unless such failure or noncompliance has been cured to the satisfaction of the attorney general.

(3) In the case of a non-participating manufacturer, neither the tobacco product manufacturer nor a brand family shall be included or retained in the directory if the attorney general concludes:

(A) That an escrow payment required pursuant to K.S.A. 50-6a03, and amendments thereto, for any period for any brand family, whether or not listed by such non-participating manufacturer, has not been fully paid into a qualified escrow fund governed by an escrow agreement that has been approved by the attorney general;

(B) that an outstanding final judgment, including interest thereon, for a violation of K.S.A. 50-6a03, and amendments thereto, has not been fully satisfied for such tobacco product manufacturer; or

(C) that, within three calendar years prior to the date of submission or approval of the most recent certification, such tobacco product man-

ufacturer has defaulted on escrow payments in any other state or jurisdiction that is a party to the master settlement agreement and the default has not been cured within 90 calendar days of such default.

(4) The attorney general shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family so as to keep the directory in conformity with the requirements of this act.

(5) The attorney general shall promptly post in the directory and transmit by electronic mail to each stamping agent that has provided an electronic mail address, notice of removal from the directory of a tobacco product manufacturer or brand family.

(6) Unless otherwise provided by agreement between a stamping agent and a tobacco product manufacturer, the stamping agent shall be entitled to a refund from a tobacco product manufacturer for any money paid by the stamping agent to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer in the possession of the stamping agent on the effective date of removal from the directory of that tobacco product manufacturer or brand family.

(7) Unless otherwise provided by agreement between a retail dealer or a vending machine operator and a tobacco product manufacturer, a retail dealer or a vending machine operator shall be entitled to a refund from a tobacco product manufacturer for any money paid by the retail dealer or vending machine operator to a stamping agent for any cigarettes of the tobacco product manufacturer still in the possession of the retail dealer or vending machine operator on the effective date of removal from the directory of that tobacco product manufacturer or brand family.

(8) *The attorney general may remove from the state directory a tobacco product manufacturer or brand family if the attorney general concludes that:*

(A) (i) *The tobacco product manufacturer or any of the tobacco product manufacturer's affiliates, sales entity affiliates, officers or directors had pleaded guilty or nolo contendere to or been found guilty of a felony crime relating to the sale or taxation of cigarettes or tobacco products; or*

(ii) *the tobacco product manufacturer and the tobacco product manufacturer's brand families have been removed from the directory of another state based on acts or omissions that would, if done in this state, serve as a basis for removal from the directory maintained by the attorney general under this section, unless the manufacturer demonstrates that its removal from the other state's directory was effected without due process.*

(B) (i) *A tobacco product manufacturer that is removed from the state directory under this subsection (b) shall be eligible for relisting in the directory described in this subsection (b) on the earlier of the date on which the tobacco product manufacturer cures the violation or the date on which the tobacco product manufacturer is reinstated to the directory in the other state; or*

(ii) *in the case of a non-participating manufacturer deemed an elevated risk pursuant to K.S.A. 50-6a09, and amendments thereto, the attorney general may require such non-participating manufacturer to post a bond in accordance with that section.*

(c) (1) On or before April 30 of each year, every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a stamping agent or similar intermediary or intermediaries, shall execute and deliver in the manner prescribed by the attorney general a certification to the attorney general certifying under penalty of perjury that, as of the date of such certification, such tobacco product manufacturer either is:

(A) A participating manufacturer; or

(B) in full compliance with K.S.A. 50-6a03, and amendments thereto, including payment of all quarterly installment payments as may be required by subsection (d).

(2) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list 30 calendar days prior to any addition to, or modification of its brand families by executing and delivering a supplemental certification to the attorney general.

(3) A non-participating manufacturer shall include in its certification:

(A) The number of units sold for each brand family sold in the state during the preceding calendar year;

(B) a list of all of its brand families sold in the state at any time during the current calendar year, including any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification;

(C) the identity, by name and address, of any other tobacco product manufacturer who manufactured such brand families in the preceding or current calendar year;

(D) a declaration that such non-participating manufacturer is registered to do business in the state, or has appointed a resident agent for service of process, and provided notice thereof as required by K.S.A. 2014 Supp. 50-6a08, and amendments thereto;

(E) a declaration that such non-participating manufacturer:

(i) Has established and continues to maintain a qualified escrow fund; and

(ii) has executed an escrow agreement that governs the qualified escrow fund and that such escrow agreement has been reviewed and approved by the attorney general;

(F) a declaration that such non-participating manufacturer consents to the jurisdiction of the district court of the third judicial district, Shawnee county, Kansas, for purposes of enforcing this act, or rules or regulations promulgated pursuant thereto, as required by ~~subsection (c) of~~ K.S.A. 2014 Supp. 50-6a08(c), and amendments thereto;

(G) a declaration that such non-participating manufacturer is in full compliance with ~~subsection (b) of K.S.A. 50-6a03(b)~~, and amendments thereto, and any rules or regulations promulgated pursuant to this act;

(H) (i) the name, address and telephone number of the financial institution where the non-participating manufacturer has established such qualified escrow fund required pursuant to ~~subsection (b) of K.S.A. 50-6a03(b)~~, and amendments thereto;

(ii) the account number of such qualified escrow fund and any sub-account number for the state of Kansas;

(iii) the amount such non-participating manufacturer placed in such qualified escrow fund for cigarettes sold in this state during the preceding calendar year, the date and amount of each such deposit and such evidence or verification as may be deemed necessary by the attorney general to confirm the foregoing; and

(iv) the amount and date of any withdrawal or transfer of funds the non-participating manufacturer made at any time from such qualified escrow fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to ~~subsection (b) of K.S.A. 50-6a03(b)~~, and amendments thereto; ~~and~~

(I) in the case of a non-participating manufacturer located outside of the United States, a declaration from each of its importers to the United States of any of its brand families to be sold in Kansas that such importer accepts joint and several liability with the non-participating manufacturer for:

(i) All escrow deposits due under ~~subsection (b) of K.S.A. 50-6a03(b)~~, and amendments thereto;

(ii) all penalties assessed under ~~subsection (b) of K.S.A. 50-6a03(b)~~, and amendments thereto; and

(iii) payment of all costs and attorney fees pursuant to any successful action under this act against ~~said~~ such manufacturer.

Such declarations by importers of a non-participating manufacturer shall appoint for the declarant a resident agent for service of process in Kansas in accordance with K.S.A. 2014 Supp. 50-6a08, and amendments thereto, and consent to jurisdiction in accordance with K.S.A. 2014 Supp. 50-6a08, and amendments thereto;

(J) *the identity of all stamping agents, wholesalers and distributors, by name and address, to whom the non-participating manufacturer or its importer sold cigarettes to or that the manufacturer or importer believes or has reason to believe purchased or received any of the manufacturer's cigarettes from another source during the preceding calendar year, and those for which the manufacturer or its importer plan to sell to or believe or has reason to believe will purchase or receive any of the manufacturer's cigarettes from another source during the certifying calendar year; and*

(K) *a declaration that all sales or shipments made by the non-participating manufacturer or its affiliates, including, but not limited to, its*

*importers and stamping agents provided for certification under this section, within or into this state are made to a stamping agent, wholesaler, distributor or retailer that is licensed in this state.*

(4) A tobacco product manufacturer may not include a brand family in its certification unless:

(A) In the case of a participating manufacturer, said participating manufacturer affirms that the brand family shall be deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year in the volume and shares determined pursuant to the master settlement agreement; or

(B) in the case of a non-participating manufacturer, said non-participating manufacturer affirms that the brand family shall be deemed to be its cigarettes for purposes of ~~subsection (b) of K.S.A. 50-6a03(b)~~, and amendments thereto.

Nothing in this paragraph shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or ~~subsection (b) of K.S.A. 50-6a03(b)~~, and amendments thereto.

(5) Invoices and documentation of sales and other such information relied upon for such certification shall be maintained by tobacco product manufacturers for a period of at least five years.

(6) *As a condition to being listed and having its brand families listed in the directory, a tobacco product manufacturer shall also:*

(A) *Certify annually that such manufacturer or its importer holds a valid permit under 26 U.S.C. § 5713 and provide a copy of such permit to the attorney general;*

(B) *certify annually that it is in compliance with all reporting and registration requirements of 15 U.S.C. § 375 et seq. and provide monthly to the director and the attorney general, regardless of sales or shipments, a copy of all reports required pursuant to 15 U.S.C. §§ 376 and 376a, to be filed electronically in a manner prescribed by the director and attorney general; and*

(C) *pay annually a \$500 directory fee to the attorney general which shall be deposited in the tobacco master settlement agreement compliance fund.*

(d) The attorney general may require a tobacco product manufacturer subject to the requirements of subsection (c) to make the escrow deposits required by ~~subsection (b) of K.S.A. 50-6a03(b)~~, and amendments thereto, in quarterly installments during the calendar year in which the sales covered by such deposits are made. The attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of the amount of the installment deposit.

Sec. 4. K.S.A. 2014 Supp. 50-6a07 is hereby amended to read as follows: 50-6a07. As used in this act:

(a) “Act” means the provisions of K.S.A. 50-6a01 through 50-6a06, and amendments thereto, and the provisions of K.S.A. 2014 Supp. 50-6a07 through 50-6a21, and amendments thereto.

(b) “Brand family” means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, “menthol,” “lights,” “kings,” and “100s,” and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors or any other indicia of product identification identical, similar to or identifiable with a previously known brand of cigarettes.

(c) “Cigarette” has the same meaning given that term in ~~subsection (d)~~ of K.S.A. 50-6a02(d), and amendments thereto.

(d) “Director” means the director of taxation.

(e) “Indian tribe” means any Indian tribe, band, nation or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under the laws of the United States.

~~(e)~~(f) “Master settlement agreement” has the same meaning given that term in ~~subsection (e)~~ of K.S.A. 50-6a02(e), and amendments thereto.

~~(f)~~(g) “Non-participating manufacturer” means any tobacco product manufacturer that is not a participating manufacturer.

~~(g)~~(h) “Participating manufacturer” has the meaning given that term in ~~subsection (i)(1)~~ of K.S.A. 50-6a02(i)(1), and amendments thereto.

~~(h)~~(i) “Qualified escrow fund” has the same meaning given that term in ~~subsection (f)~~ of K.S.A. 50-6a02(f), and amendments thereto.

~~(i)~~(j) “Resident agent” means a domestic corporation, a domestic limited partnership, a domestic limited liability company or a domestic business trust or a foreign corporation, a foreign limited partnership, a foreign limited liability company or a foreign business trust authorized to transact business in this state, and which is generally open during regular business hours to accept service of process on behalf of a non-participating manufacturer.

~~(j)~~(k) “Retail dealer” has the same meaning given that term in ~~subsection (q)~~ of K.S.A. 79-3301(q), and amendments thereto.

~~(k)~~(l) “Stamping agent” means a person who is authorized to affix tax indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amendments thereto, or any person who is required to pay the tax on the privilege of selling or dealing in roll-your-own tobacco products pursuant to K.S.A. 79-3371, and amendments thereto.

~~(l)~~(m) “Tax indicia” has the same meaning given that term in ~~subsection (u)~~ of K.S.A. 79-3301(u), and amendments thereto.

~~(m)~~(n) “Tobacco product manufacturer” has the same meaning given that term in ~~subsection (i)~~ of K.S.A. 50-6a02(i), and amendments thereto.

(o) “Qualified tribal land” means:

(1) *All land within the borders of this state that is within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, including rights-of-way running through the reservation;*

(2) *all dependent Indian communities within the borders of this state;*

(3) *all Indian allotments within the borders of this state, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments; and*

(4) *any lands within the borders of this state, the title to which is either held in trust by the United States for the benefit of any Indian tribe or individual, or held by any Indian tribe or individual subject to restriction by the United States against alienation, and over which an Indian tribe exercises governmental power.*

~~(n)~~(p) “Units sold” has the same meaning given that term in ~~subsection (j) of K.S.A. 50-6a02(j)~~, and amendments thereto.

~~(o)~~(q) “Vending machine operator” has the same meaning given that term in ~~subsection (y) of K.S.A. 79-3301(y)~~, and amendments thereto.

Sec. 5. K.S.A. 2014 Supp. 50-6a10 is hereby amended to read as follows: 50-6a10. (a) (1) No later than 10 calendar days after the end of each calendar month, and more frequently if so directed by the attorney general or director, each stamping agent authorized to affix tax indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amendments thereto, shall submit such information as the attorney general or director requires. No later than 20 calendar days after the end of each calendar month, and more frequently if so directed by the attorney general or director, each stamping agent who is required to pay the tax on the privilege of selling or dealing in roll-your-own tobacco products pursuant to K.S.A. 79-3371, and amendments thereto, shall submit such information as the attorney general or director requires.

(2) Invoices and documentation of sales of all non-participating manufacturer cigarettes, and any other information relied upon in reporting to the director shall, upon request, be made available to the director *or the attorney general*. Such invoices and documents shall be maintained for a period of at least three years.

(b) At any time, the attorney general may request from the non-participating manufacturer or the financial institution at which such manufacturer has established a qualified escrow fund for the purpose of compliance with ~~subsection (b) of K.S.A. 50-6a03(b)~~, and amendments thereto, proof of the amount of money in such fund, exclusive of interest, the amount and date of each deposit to such fund and the amount and date of each withdrawal from such fund.

(c) In addition to the information required to be submitted pursuant to subsections (a) and (b) and ~~subsection (c) of K.S.A. 50-6a04(c)~~, and amendments thereto, the attorney general or the director may require a

stamping agent or tobacco product manufacturer to submit any additional information including, but not limited to, samples of the packaging or labeling of each brand family as is necessary to enable the attorney general to determine whether a tobacco product manufacturer is in compliance with this act.

(d) A stamping agent or non-participating manufacturer receiving a request pursuant to ~~subsection (e)~~ *this section* shall provide the requested information within 30 calendar days from receipt of the request.

Sec. 6. K.S.A. 2014 Supp. 50-6a11 is hereby amended to read as follows: 50-6a11. (a) The director is authorized to disclose to the attorney general any information received under this act, as requested by the attorney general for purposes of determining compliance with or enforcing the provisions of this act. The director and attorney general shall share with each other information received under this act and the director and the attorney general may share such information with federal agencies, attorneys general of other states or directors of taxation or their equivalents of other states, for purposes of enforcement of this act, the corresponding federal laws or the corresponding laws of other states. *The director and attorney general may share the information specified under this subsection with any of the following:*

(1) *Federal, state or local agencies for the purposes of enforcement of corresponding laws of other states.*

(2) *A court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.*

(b) Except as otherwise provided, any information provided to the attorney general or director for purposes of enforcement of this act may be shared between the attorney general and the director and shall not be disclosed publicly by the attorney general or the director except when necessary to facilitate compliance with and enforcement of this act.

(c) On a quarterly basis, and upon request made in writing by a tobacco product manufacturer, the attorney general or the director may provide the name of any stamping agent who reports selling the tobacco product manufacturer's products.

(d) On a quarterly basis, and upon request made in writing by a tobacco product manufacturer, a stamping agent shall provide to the requesting tobacco product manufacturer the total number of cigarettes, by brand family, which the stamping agent reported to the attorney general or director pursuant to K.S.A. 2014 Supp. 50-6a10, and amendments thereto, provided that such information provided by the stamping agent to a tobacco product manufacturer shall be limited to the brand families

of that manufacturer as listed in the directory established in ~~subsection (b)~~ of K.S.A. 50-6a04(b), and amendments thereto.

(e) Unless disclosure is authorized under this section, all information obtained by the director and disclosed to the attorney general or shared with federal agencies, attorneys general of other states or directors of taxation or their equivalents of other states for purposes of enforcement of this act, the corresponding federal laws or the corresponding laws of other states, shall be confidential. The penalties provided under K.S.A. 75-5133, and amendments thereto, shall not apply when information is lawfully disclosed pursuant to this section.

*(f) Any tobacco sales data provided to the director, attorney general or data clearinghouse for the purpose of assessing compliance with or making calculations required by the master settlement agreement or related agreements, shall be confidential. The provisions of this subsection shall expire on July 1, 2020, unless the legislature reviews this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2020.*

Sec. 7. K.S.A. 2014 Supp. 50-6a16 is hereby amended to read as follows: 50-6a16. (a) It shall be unlawful for a person to sell or distribute cigarettes, or acquire, hold, own, possess, transport, import or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state in violation of ~~subsection (a) of K.S.A. 50-6a04(a), and amendments thereto. A violation of this subsection shall be a class B misdemeanor or 50-6a13(a), and amendments thereto.~~

*(1) Upon a first conviction for a violation of subsection (a), a person shall be guilty of a class A nonperson misdemeanor and sentenced to no more than one year in confinement and fined not less than \$1,000, nor more than \$2,500.*

*(2) On a second conviction for a violation of subsection (a), a person shall be guilty of a severity level 9 nonperson felony and fined a sum of not less than \$10,000, nor more than \$100,000, and sentenced according to the provisions of K.S.A. 2014 Supp. 21-6804, and amendments thereto.*

*(3) On a third or subsequent conviction for a violation of subsection (a), a person shall be guilty of a severity level 9 nonperson felony and fined a sum of no less than \$50,000, nor more than \$100,000, and sentenced according to the provisions of K.S.A. 2014 Supp. 21-6804, and amendments thereto.*

*(4) The penalties provided hereunder are cumulative to the remedies or penalties, including all civil penalties, under all other laws of this state.*

(b) It shall be unlawful for a non-participating manufacturer, directly or indirectly, to falsely represent to any person in Kansas:

- (1) Any information about a brand family listed on the directory;
- (2) that it is a participating manufacturer;
- (3) that it has made all required escrow payments; or

(4) that it has satisfied any other requirements imposed pursuant to this act.

A violation of this subsection is a class A nonperson misdemeanor.

(c) The attorney general shall have concurrent authority with any county or district attorney to prosecute any violation of this section.

Sec. 8. K.S.A. 2014 Supp. 75-5133 is hereby amended to read as follows: 75-5133. (a) Except as otherwise more specifically provided by law, all information received by the secretary of revenue, the director of taxation or the director of alcoholic beverage control from returns, reports, license applications or registration documents made or filed under the provisions of any law imposing any sales, use or other excise tax administered by the secretary of revenue, the director of taxation, or the director of alcoholic beverage control, or from any investigation conducted under such provisions, shall be confidential, and it shall be unlawful for any officer or employee of the department of revenue to divulge any such information except in accordance with other provisions of law respecting the enforcement and collection of such tax, in accordance with proper judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

(b) The secretary of revenue or the secretary's designee may:

(1) Publish statistics, so classified as to prevent identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or the attorney general's designee;

(3) provide the post auditor access to all such excise tax reports or returns in accordance with and subject to the provisions of ~~subsection (g) of~~ K.S.A. 46-1106(g), and amendments thereto;

(4) disclose taxpayer information from excise tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) provide information from returns and reports filed under article 42 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, to county appraisers as is necessary to ensure proper valuations of property. Information from such returns and reports may also be exchanged with any other state agency administering and collecting conservation or other taxes and fees imposed on or measured by mineral production;

(6) provide, upon request by a city or county clerk or treasurer or finance officer of any city or county receiving distributions from a local excise tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month, and identifying each business loca-

tion maintained by the retailer and such retailer's sales or use tax registration or account number;

(7) provide information from returns and applications for registration filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-3601, and amendments thereto, to a city or county treasurer or clerk or finance officer to explain the basis of statistics contained in reports provided by subsection (b)(6);

(8) disclose the following oil and gas production statistics received by the department of revenue in accordance with K.S.A. 79-4216 et seq., and amendments thereto: Volumes of production by well name, well number, operator's name and identification number assigned by the state corporation commission, lease name, leasehold property description, county of production or zone of production, name of purchaser and purchaser's tax identification number assigned by the department of revenue, name of transporter, field code number or lease code, tax period, exempt production volumes by well name or lease, or any combination of this information;

(9) release or publish liquor brand registration information provided by suppliers, farm wineries, microdistilleries and microbreweries in accordance with the liquor control act. The information to be released is limited to: Item number, universal numeric code, type status, product description, alcohol percentage, selling units, unit size, unit of measurement, supplier number, supplier name, distributor number and distributor name;

(10) release or publish liquor license information provided by liquor licensees, distributors, suppliers, farm wineries, microdistilleries and microbreweries in accordance with the liquor control act. The information to be released is limited to: County name, owner, business name, address, license type, license number, license expiration date and the process agent contact information;

(11) release or publish cigarette and tobacco license information obtained from cigarette and tobacco licensees in accordance with the Kansas cigarette and tobacco products act. The information to be released is limited to: County name, owner, business name, address, license type and license number;

(12) provide environmental surcharge or solvent fee, or both, information from returns and applications for registration filed pursuant to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary of health and environment or the secretary's designee for the sole purpose of ensuring that retailers collect the environmental surcharge tax or solvent fee, or both;

(13) provide water protection fee information from returns and applications for registration filed pursuant to K.S.A. 82a-954, and amendments thereto, to the secretary of the state board of agriculture or the secretary's designee and the secretary of the Kansas water office or the

secretary's designee for the sole purpose of verifying revenues deposited to the state water plan fund;

(14) provide to the secretary of commerce copies of applications for project exemption certificates sought by any taxpayer under the enterprise zone sales tax exemption pursuant to ~~subsection (cc) of~~ K.S.A. 79-3606(cc), and amendments thereto;

(15) disclose information received pursuant to the Kansas cigarette and tobacco act and subject to the confidentiality provisions of this act to any criminal justice agency, as defined in ~~subsection (c) of~~ K.S.A. 22-4701(c), and amendments thereto, or to any law enforcement officer, as defined in K.S.A. 2014 Supp. 21-5111, and amendments thereto, on behalf of a criminal justice agency, when requested in writing in conjunction with a pending investigation;

(16) provide to retailers tax exemption information for the sole purpose of verifying the authenticity of tax exemption numbers issued by the department;

(17) provide information concerning remittance by sellers, as defined in K.S.A. 2014 Supp. 12-5363, and amendments thereto, of prepaid wireless 911 fees from returns to the local collection point administrator, as defined in K.S.A. 2014 Supp. 12-5363, and amendments thereto, for purposes of verifying seller compliance with collection and remittance of such fees; ~~and~~

(18) release or publish charitable gaming information obtained in bingo licensee and registration applications and renewals in accordance with the bingo act, K.S.A. 79-4701 et seq., and amendments thereto. The information to be released is limited to: The name, address, phone number, license registration number and email address of the organization, distributor or of premises; *and*

(19) *provide to the attorney general confidential information for purposes of determining compliance with or enforcing K.S.A. 50-6a01 et seq., and amendments thereto, the master settlement agreement referred to therein and all agreements regarding disputes under the master settlement agreement. The secretary and the attorney general may share the information specified under this subsection with any of the following:*

(A) *Federal, state or local agencies for the purposes of enforcement of corresponding laws of other states; and*

(B) *a court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.*

(c) Any person receiving any information under the provisions of subsection (b) shall be subject to the confidentiality provisions of subsection (a) and to the penalty provisions of subsection (d).

(d) Any violation of this section shall be a class A, nonperson misdemeanor, and if the offender is an officer or employee of this state, such officer or employee shall be dismissed from office. Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute any violation of this section if the offender is a city or county clerk or treasurer or finance officer of a city or county.

Sec. 9. K.S.A. 50-6a02 and K.S.A. 2014 Supp. 21-6110, 50-6a04, 50-6a07, 50-6a10, 50-6a11, 50-6a16 and 75-5133 are hereby repealed.

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

Approved June 2, 2015.

Published in the *Kansas Register* June 4, 2015.

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## CHAPTER 80

### HOUSE BILL No. 2364

AN ACT concerning certain improvement districts; amending K.S.A. 19-2761 and repealing the existing section.

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

Section 1. K.S.A. 19-2761 is hereby amended to read as follows: 19-2761. ~~That should~~ (a) *Except as provided in subsection (b), when a vacancy occurs at any time in the office of a director of any improvement district, the remaining directors shall appoint a person from the qualified residents in such district a person to hold the office of director until the next election.*

(b) (1) *When a vacancy occurs in the office of a director of the Peck improvement district located in Sumner and Sedgwick counties, the board of county commissioners of Sumner county shall appoint a resident of Sumner county or Sedgwick county to hold the office of director until the next election.*

(2) *Once the appointment of a director has been made under paragraph (1), the Sedgwick county board of commissioners shall have 30 days to reject such appointment by a majority vote of the board. If no such action is taken, the appointment shall be deemed approved. If the appointment is rejected, the appointment process shall be repeated until a director is selected.*

Sec. 2. K.S.A. 19-2761 is hereby repealed.

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

Approved June 2, 2015.

Published in the *Kansas Register* June 4, 2015.

CHAPTER 81

HOUSE BILL No. 2005

TO	SEC.
Judicial branch .....	1, 2

AN ACT concerning the judicial branch; relating to court fees, docket fees and court costs; relating to dispositive motions; judicial branch surcharge fund, electronic filing and management fund and judicial branch docket fee fund; making and concerning appropriations for the fiscal years ending June 30, 2016, and June 30, 2017, for the judicial branch; amending K.S.A. 2014 Supp. 8-2107, 8-2110, 20-362, 20-3021, 21-6614, 22-2410, 23-2510, 28-170, 28-172a, 28-177, 28-178, 28-179, 32-1049a, 38-2215, 38-2312, 38-2314, 59-104, 60-256, 60-729, 60-2001, 60-2203a, 61-2704, 61-4001 and 65-409 and repealing the existing sections; also repealing K.S.A. 2014 Supp. 21-6614e.

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

Section 1.

JUDICIAL BRANCH

(a) There is appropriated from the above agency from the state general fund for the fiscal year ending June 30, 2016, the following:

Judiciary operations ..... \$101,904,750

*Provided*, That any unencumbered balance in the judiciary operations account in excess of \$100 as of June 30, 2015, is hereby reappropriated for fiscal year 2016: *Provided further*, That contracts for computer input of judicial opinions and all purchases thereunder shall not be subject to the provisions of K.S.A. 75-3739, and amendments thereto: *And provided further*, That expenditures may be made from the judiciary operations account for contingencies without limitation at the discretion of the chief justice: *And provided further*, That expenditures from the judiciary operations account for such contingencies shall not exceed \$25,000: *And provided further*, That expenditures from the judiciary operations account for official hospitality shall not exceed \$4,000: *And provided further*, That expenditures shall be made from the judiciary operations account for the travel expenses of panels of the court of appeals for travel to cities across the state to hear appealed cases.

(b) There is appropriated from the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2016, 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:

Library report fee fund .....	No limit
Judiciary technology fund .....	No limit
Judicial branch gifts fund.....	No limit
Dispute resolution fund.....	No limit
Judicial branch education fund.....	No limit

*Provided*, That expenditures may be made from the judicial branch education 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, educating and training municipal judges and municipal court support staff, and for the planning and implementation of a family court system, as provided by law, including official hospitality: *Provided further*, That the judicial administrator is hereby authorized to fix, charge and collect fees for such services and programs: *And provided further*, That such fees may be fixed to cover all or part of the operating expenditures incurred in providing such services and programs, including official hospitality: *And provided further*, That all fees received for such services 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 education fund.

Conversion of materials and equipment fund .....	No limit
Child welfare federal grant fund.....	No limit
Child support enforcement contractual agreement fund...	No limit
SJI grant fund.....	No limit
Bar admission fee fund .....	No limit
Permanent families account — family and children investment fund .....	No limit
Duplicate law book fund .....	No limit
Court reporter fund.....	No limit
Access to justice fund.....	No limit
Judicial technology and building and grounds fund.....	No limit
Judicial branch nonjudicial salary initiative fund.....	No limit
Judicial branch nonjudicial salary adjustment fund .....	No limit
Federal grants fund .....	No limit
District magistrate judge supplemental compensation fund .....	No limit
Correctional supervision fund.....	No limit
Edward Byrne justice assistance grant fund — ARRA.....	No limit
S.T.O.P. violence against women act fund — ARRA.....	No limit
Violence against women grant fund — ARRA.....	No limit
Judicial branch docket fee fund.....	No limit

Electronic filing and management fund ..... No limit

(c) During the fiscal year ending June 30, 2016, the chief justice of the Kansas supreme court may transfer any funds from the electronic filing and management fund to the judicial branch docket fee fund. The chief justice shall certify each such transfer to the director of accounts and reports and shall transmit a copy of each such certification to the director of legislative research.

Sec. 2.

JUDICIAL BRANCH

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2017, the following:

Judiciary operations ..... \$105,685,224

*Provided*, That any unencumbered balance in the judiciary operations account in excess of \$100 as of June 30, 2016, is hereby reappropriated for fiscal year 2017: *Provided further*, That contracts for computer input of judicial opinions and all purchases thereunder shall not be subject to the provisions of K.S.A. 75-3739, and amendments thereto: *And provided further*, That expenditures may be made from the judiciary operations account for contingencies without limitation at the discretion of the chief justice: *And provided further*, That expenditures from the judiciary operations account for such contingencies shall not exceed \$25,000: *And provided further*, That expenditures from the judiciary operations account for official hospitality shall not exceed \$4,000: *And provided further*, That expenditures shall be made from the judiciary operations account for the travel expenses of panels of the court of appeals for travel to cities across the state to hear appealed cases.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2017, 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:

Library report fee fund ..... No limit  
Judiciary technology fund ..... No limit  
Judicial branch gifts fund..... No limit  
Dispute resolution fund..... No limit  
Judicial branch education fund..... No limit

*Provided*, That expenditures may be made from the judicial branch education 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, educating and training municipal judges and municipal court support staff, and for the planning and implementation of a family court system, as provided by law, including

official hospitality: *Provided further*, That the judicial administrator is hereby authorized to fix, charge and collect fees for such services and programs: *And provided further*, That such fees may be fixed to cover all or part of the operating expenditures incurred in providing such services and programs, including official hospitality: *And provided further*, That all fees received for such services 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 education fund.

Conversion of materials and equipment fund .....	No limit
Child welfare federal grant fund.....	No limit
Child support enforcement contractual agreement fund...	No limit
SJI grant fund.....	No limit
Bar admission fee fund .....	No limit
Permanent families account — family and children investment fund .....	No limit
Duplicate law book fund .....	No limit
Court reporter fund.....	No limit
Access to justice fund.....	No limit
Judicial technology and building and grounds fund.....	No limit
Judicial branch nonjudicial salary initiative fund.....	No limit
Judicial branch nonjudicial salary adjustment fund .....	No limit
Federal grants fund .....	No limit
District magistrate judge supplemental compensation fund .....	No limit
Correctional supervision fund.....	No limit
Edward Byrne justice assistance grant fund — ARRA.....	No limit
S.T.O.P. violence against women act fund — ARRA.....	No limit
Violence against women grant fund — ARRA.....	No limit
Judicial branch docket fee fund.....	No limit
Electronic filing and management fund.....	No limit

Sec. 3. *Appeals to exceed expenditure limitations.* (a) Upon written application to the governor and approval of the state finance council, expenditures from special revenue funds may exceed the amounts specified in this act.

(b) This section shall not apply to the expanded lottery act revenues fund, state economic development initiatives fund, the children’s initiatives fund, the state water plan fund or the Kansas endowment for youth fund, or to any account of any of such funds.

New Sec. 4. (a) On and after the effective date of this act, any party filing a dispositive motion shall pay a fee in the amount of \$195 to the clerk of the district court. A poverty affidavit may be filed in lieu of payment of such fee, as established in K.S.A. 60-2001, and amendments thereto. The fee shall be disbursed in accordance with K.S.A. 20-362, and

amendments thereto. The fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect such fee. Such fee shall be an item allowable as a cost pursuant to K.S.A. 60-2003, and amendments thereto.

(b) As used in this section, “dispositive motion” means a motion to dismiss, a motion for judgment on the pleadings, a motion for summary judgment or partial summary judgment or a motion for judgment as a matter of law. “Dispositive motion” also shall include any motion determined by a judge to be seeking any disposition described in this subsection, regardless of the title assigned to such motion at the time of filing.

(c) 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.

(d) The provisions of this section shall not apply to an action pursuant to the code of civil procedure for limited actions.

(e) This section shall be part of and supplemental to the code of civil procedure.

Sec. 5. On July 1, 2015, K.S.A. 2014 Supp. 8-2107 is hereby amended to read as follows: 8-2107. (a) (1) Notwithstanding any other provisions of the uniform act regulating traffic on highways, when a person is stopped by a police officer for any of the offenses described in subsection (d) and such person is not immediately taken before a judge of the district court, the police officer may require the person stopped, subject to the provisions of subsection (c), to deposit with the officer a valid Kansas driver’s license in exchange for a receipt therefor issued by such police officer, the form of which shall be approved by the division of vehicles. Such receipt shall be recognized as a valid temporary Kansas driver’s license authorizing the operation of a motor vehicle by the person stopped until the date of the hearing stated on the receipt. The driver’s license and a written copy of the notice to appear shall be delivered by the police officer to the court having jurisdiction of the offense charged as soon as reasonably possible. If the hearing on such charge is continued for any reason, the judge may note on the receipt the date to which such hearing has been continued and such receipt shall be recognized as a valid temporary Kansas driver’s license until such date, but in no event shall such receipt be recognized as a valid Kansas driver’s license for a period longer than 30 days from the date set for the original hearing. Any person who has deposited a driver’s license with a police officer under this subsection (a) shall have such license returned upon final determination of the charge against such person.

(2) In the event the person stopped deposits a valid Kansas driver’s license with the police officer and fails to appear in the district court on the date set for appearance, or any continuance thereof, and in any event within 30 days from the date set for the original hearing, the court shall

forward such person's driver's license to the division of vehicles with an appropriate explanation attached thereto. Upon receipt of such person's driver's license, the division shall suspend such person's privilege to operate a motor vehicle in this state until such person appears before the court having jurisdiction of the offense charged, the court makes a final disposition thereof and notice of such disposition is given by the court to the division. No new or replacement license shall be issued to any such person until such notice of disposition has been received by the division. The provisions of K.S.A. 8-256, and amendments thereto, limiting the suspension of a license to one year, shall not apply to suspensions for failure to appear as provided in this subsection (a).

(b) No person shall apply for a replacement or new driver's license prior to the return of such person's original license which has been deposited in lieu of bond under this section. Violation of this subsection (b) is a class C misdemeanor. The division may suspend such person's driver's license for a period of not to exceed one year from the date the division receives notice of the disposition of the person's charge as provided in subsection (a).

(c) (1) In lieu of depositing a valid Kansas driver's license with the stopping police officer as provided in subsection (a), the person stopped may elect to give bond in the amount specified in subsection (d) for the offense for which the person was stopped. When such person does not have a valid Kansas driver's license, such person shall give such bond. Such bond shall be subject to forfeiture if the person stopped does not appear at the court and at the time specified in the written notice provided for in K.S.A. 8-2106, and amendments thereto.

(2) Such bond may be a cash bond, a bank card draft from any valid and unexpired credit card approved by the division of vehicles or superintendent of the Kansas highway patrol or a guaranteed arrest bond certificate issued by either a surety company authorized to transact such business in this state or an automobile club authorized to transact business in this state by the commissioner of insurance. If any of the approved bank card issuers redeem the bank card draft at a discounted rate, such discount shall be charged against the amount designated as the fine for the offense. If such bond is not forfeited, the amount of the bond less the discount rate shall be reimbursed to the person providing the bond by the use of a bank card draft. Any such guaranteed arrest bond certificate shall be signed by the person to whom it is issued and shall contain a printed statement that such surety company or automobile club guarantees the appearance of such person and will, in the event of failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person not to exceed an amount to be stated on such certificate.

(3) Such cash bond shall be taken in the following manner: The police officer shall furnish the person stopped a stamped envelope addressed to

the judge or clerk of the court named in the written notice to appear and the person shall place in such envelope the amount of the bond, and in the presence of the police officer shall deposit the same in the United States mail. After such cash payment, the person stopped need not sign the written notice to appear, but the police officer shall note the amount of the bond mailed on the notice to appear form and shall give a copy of such form to the person. If the person stopped furnishes the police officer with a guaranteed arrest bond certificate or bank card draft, the police officer shall give such person a receipt therefor and shall note the amount of the bond on the notice to appear form and give a copy of such form to the person stopped. Such person need not sign the written notice to appear, and the police officer shall present the notice to appear and the guaranteed arrest bond certificate or bank card draft to the court having jurisdiction of the offense charged as soon as reasonably possible.

(d) The offenses for which appearance bonds may be required as provided in subsection (c) and the amounts thereof shall be as follows:

On and after July 1, 1996:

Reckless driving .....	\$82
Driving when privilege is canceled, suspended or revoked.....	82
Failure to comply with lawful order of officer.....	57
Registration violation (registered for 12,000 pounds or less).....	52
Registration violation (registered for more than 12,000 pounds).....	92
No driver's license for the class of vehicle operated or vi- olation of restrictions .....	52
Spilling load on highway.....	52
Transporting open container of alcoholic liquor or cereal malt beverage accessible while vehicle in motion .....	223

(e) In the event of forfeiture of any bond under this section, \$75 of the amount forfeited shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(f) None of the provisions of this section shall be construed to conflict with the provisions of the nonresident violator compact.

(g) When a person is stopped by a police officer for any traffic infraction and the person is a resident of a state which is not a member of the nonresident violator compact, K.S.A. 8-1219 et seq., and amendments thereto, or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount specified in the uniform fine schedule in ~~subsection (c) of~~ K.S.A. 8-2118(c), and amendments thereto, plus \$75 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(h) When a person is stopped by a police officer for failure to provide proof of financial security pursuant to K.S.A. 40-3104, and amendments thereto, and the person is a resident of another state or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount of \$75, plus \$75 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(i) 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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 6. On July 1, 2015, K.S.A. 2014 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 driver's 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.

(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 municipal 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. 2014 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 July 1, ~~2013~~ 2015, through July

~~1, 2015~~ *June 30, 2017*, the supreme court may impose an additional charge, not to exceed \$22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 7. On July 1, 2015, K.S.A. 2014 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(c), 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 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.

(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 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). 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, *June 30, 2018, and June 30, 2019*, of the remainder, the state treasurer shall deposit and credit the first \$3,100,000 to the electronic filing and management fund created in K.S.A. 2014 Supp. 20-1a16, and amendments thereto. During the fiscal year ending June 30, ~~2018~~ *2020*, 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. 8. On July 1, 2015, K.S.A. 2014 Supp. 20-3021 is hereby amended to read as follows: 20-3021. (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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, 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.

Sec. 9. On July 1, 2015, K.S.A. 2014 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. 2014 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. 2014 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 amend-

ments 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 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. 2014 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. 2014 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. 2014 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;~~

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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. 2014 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 July 1, ~~2013~~ 2015, through ~~July 1, 2015~~ June 30, 2017, 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. 2014 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 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. 2014 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. 2014 Supp. 21-6304(a)(3)(A)~~, 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 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 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. 10. On July 1, 2015, K.S.A. 2014 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 \$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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, 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. 2014 Supp. 21-6107(a), 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 Kansas department for aging and disability 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.

(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. 11. On July 1, 2015, K.S.A. 2014 Supp. 23-2510 is hereby amended to read as follows: 23-2510. (a) The judge or clerk of the district court shall collect from the applicant for a marriage license a fee of \$59.

(b) The clerk of the court shall remit all fees prescribed by this section 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. Of each remittance, the state treasurer shall credit 38.98% to the protection from abuse fund, 15.19% to the family and children trust account of the family and children investment fund created by K.S.A. 38-1808, and amendments thereto, 16.95% to the crime victims assistance fund created by K.S.A. 74-7334, and amendments thereto, 15.25% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2014 Supp. 20-1a15, and amendments thereto, and the remainder to the state general fund.

(c) Except as provided further, the marriage license fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for a marriage license. 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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court may impose an additional

charge, not to exceed \$26.50 per marriage license fee, to fund the costs of non-judicial personnel.

Sec. 12. On July 1, 2015, K.S.A. 2014 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. 2014 Supp. 38-2201 et seq., and amendments thereto, the revised Kansas juvenile justice code, K.S.A. 2014 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) 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 2015, through ~~July 1, 2015~~ June 30, 2017, 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. 13. On July 1, 2015, K.S.A. 2014 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(c)~~, 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, 2014, a docket fee of \$86 shall be charged. When an action is disposed of under ~~subsections (a) and (b) of K.S.A. 8-2118(a) and (b)~~, or ~~subsection (f) of K.S.A. 79-3393(f)~~, and amendments thereto, on and after July 1, 2014, the docket fee to be paid as court costs shall be \$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, 2014, a docket fee of \$86 shall be charged. When an action is disposed of under ~~subsection (a) and (b) of K.S.A. 8-2118(a) and (b)~~, and amendments thereto, on and after July 1, 2014, the docket fee to be paid as court costs shall be \$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 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 investi-

gation 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~~ 2015, through July 1, ~~2015~~ June 30, 2017, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 14. On July 1, 2015, K.S.A. 2014 Supp. 28-177 is hereby amended to read as follows: 28-177. (a) Except as provided in this section and K.S.A. 2014 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~~ 2015, through July 1, ~~2015~~ June 30, 2017, 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. 2014 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 docket fee fund, which is hereby created in the state treasury.

(c) Moneys credited to the judicial branch docket fee fund shall not be expended for compensation of judges or justices of the judicial branch.

(d) All expenditures from the judicial branch docket fee fund shall be made in accordance with appropriation acts and 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.

(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. 15. On July 1, 2015, K.S.A. 2014 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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, 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 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. 16. On July 1, 2015, K.S.A. 2014 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 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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 17. On July 1, 2015, K.S.A. 2014 Supp. 32-1049a is hereby amended to read as follows: 32-1049a. (a) Failure to comply with a wildlife, parks and tourism citation means failure to:

(1) Appear before any district court in response to a wildlife, parks

and tourism citation and pay in full any fine, court costs, assessments or fees imposed;

(2) fully pay or satisfy all fines, court costs, assessments or fees imposed as a part of the sentence of any district court for violation of the wildlife, parks and tourism laws of this state; or

(3) otherwise comply with a wildlife, parks and tourism citation as provided in K.S.A. 32-1049, and amendments thereto.

Failure to comply with a wildlife, parks and tourism citation is a class C misdemeanor, regardless of the disposition of the charge for which such citation, complaint or charge was originally issued.

(b) The term “citation” means any complaint, summons, notice to appear, ticket, warrant, penalty assessment or other official document issued for the prosecution of the wildlife, parks and tourism laws or rules and regulations of this state.

(c) In addition to penalties of law applicable under subsection (a) when a person fails to comply with a wildlife, parks and tourism citation or sentence for a violation of wildlife, parks and tourism laws or rules and regulations, the district court in which the person should have complied shall mail a notice to the person that if the person does not appear in the district court or pay all fines, court costs, assessments or fees, and any penalties imposed within 30 days from the date of mailing, the Kansas department of wildlife, parks and tourism shall be notified to forfeit or suspend any license, permit, stamp or other issue of the department. Upon receipt of a report of a failure to comply with a wildlife, parks and tourism citation under this section, and amendments thereto, the department shall notify the violator and suspend or forfeit the license, permit, stamp or other issue of the department held by the violator until satisfactory evidence of compliance with the wildlife, parks and tourism citation or sentence of the district court for violation of the wildlife, parks and tourism laws or rules and regulations of this state are furnished to the informing court. Upon receipt of notification of such compliance from the informing court, the department shall terminate the suspension action, unless the violator is otherwise suspended.

(d) Except as provided in subsection (e), when the district court notifies the department of a failure to comply with a wildlife, parks and tourism citation or failure to comply with a sentence of the district court imposed on violation of a wildlife, parks and tourism law or rule and regulation, the court shall assess a reinstatement fee of \$50 for each charge or sentence on which the person failed to make satisfaction, regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, court costs and other assessments, fees or 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 re-

mittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such moneys to the state general fund.

(e) The district court shall waive the reinstatement fee provided for in subsection (d), if the failure to comply with a wildlife, parks and tourism citation was the result of such person enlisting in or being drafted into the armed services of the United States of America, being called into service as a member of a reserve component of the military service of the United States of America, or volunteering for such active duty or being called into service as a member of the Kansas national guard or volunteering for such active duty and being absent from Kansas because of such military service. 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.

(f) Except as provided further, the reinstatement fee established in subsection (d) 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 July 1, ~~2013~~ 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court may impose an additional charge, not to exceed \$22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 18. On July 1, 2015, K.S.A. 2014 Supp. 38-2215 is hereby amended to read as follows: 38-2215. (a) *Docket fee*. The docket fee for proceedings under this code, if one is assessed as provided in this section, shall be \$34. Only one docket fee shall be assessed in each case. 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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

(b) *Expenses*. The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) *Assessment of docket fee and expenses*. (1) *Docket fee*. The docket fee may be assessed or waived by the court conducting the initial dispositional hearing and the docket fee may be assessed against the complaining witness or person initiating the proceedings or a party or interested party other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state, or a person acting in

the capacity of an employee of the state or of a political subdivision of the state. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) *Expenses.* Expenses may be assessed against the complaining witness, a person initiating the proceedings, a party or an interested party, other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state. When expenses are recovered from a person against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery. If it appears to the court in any proceedings under this code that expenses were unreasonably incurred at the request of any party the court may assess that portion of the expenses against the party.

(d) *Cases in which venue is transferred.* If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except to the extent that the sending county's proportion of the expenses is collected by the receiving court. All amounts collected shall first be applied toward payment of the docket fee.

Sec. 19. On July 1, 2015, K.S.A. 2014 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. 2014 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2014 Supp. 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or K.S.A. 2014 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. 2014 Supp. 21-5405(a)(3), and amendments thereto, in-

voluntary manslaughter while driving under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2014 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5506(a)~~, and amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5506(b)~~, 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. 2014 Supp. 21-5504(b)~~, and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5508(a)~~, and amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5508(b)~~, and amendments thereto, aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 2014 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. 2014 Supp. 21-5604(b)~~, and amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5601(a)~~, and amendments thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2014 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 \$176. On and after July 1, ~~2013~~ 2015, through ~~July 1, 2015~~ June 30, 2017, 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. 2014 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 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 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. 20. On July 1, 2015, K.S.A. 2014 Supp. 38-2314 is hereby amended to read as follows: 38-2314. (a) *Docket fee*. The docket fee for proceedings under this code, if one is assessed as provided by this section, shall be \$34. Only one docket fee shall be assessed in each case. 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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

(b) *Expenses.* The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket fee may be assessed or waived by the court conducting the initial sentencing hearing and may be assessed against the juvenile or the parent of the juvenile. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) *Expenses.* Expenses may be waived or assessed against the juvenile or a parent of the juvenile. When expenses are recovered from a party against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery.

(3) *Prohibited assessment.* Docket fees or expenses shall not be assessed against the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state.

(d) *Cases in which venue is transferred.* If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court’s share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except to the extent that the sending county’s proportionate share of the expenses is collected by the receiving court. Unless otherwise ordered by the court, all amounts collected shall first be applied toward payment of restitution, then toward the payment of the docket fee.

Sec. 21. On July 1, 2015, K.S.A. 2014 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, 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 .....	173.00
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~~ 2015, through July 1, ~~2015~~ June 30, 2017, 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(b) 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. 22. K.S.A. 2014 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. 23. On July 1, 2015, K.S.A. 2014 Supp. 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 legis-

lature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2013~~ 2015, through ~~July 1, 2015~~ June 30, 2017, 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. 24. On July 1, 2015, K.S.A. 2014 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 \$173 on and after July 1, 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 July 1, ~~2013~~ 2015, through ~~July 1, 2015~~ June 30, 2017, 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 statement 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. 2014 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. 25. On July 1, 2015, K.S.A. 2014 Supp. 60-2203a is hereby amended to read as follows: 60-2203a. (a) After the commencement of any action in any district court of this state, or the courts of the United States in the state of Kansas or in any action now pending heretofore commenced in such courts, which does not involve title to real estate, any party to such action may give notice in any other county of the state of the pendency of the action by filing for record with the clerk of the district court of such other county a verified statement setting forth the parties to the action, the nature of the action, the court in which it is pending, and the relief sought, which shall impart notice of the pendency of the action and shall result in the same lien rights as if the action were pending in that county. The lien shall be effective from the time the statement is

filed, but not to exceed four months prior to the entry of judgment except as provided in subsection (c). The party filing such notice shall within 30 days after any satisfaction of the judgment entered in such action, or any other final disposition thereof, cause to be filed with such clerk of the district court a notice that all claims in such action are released. If the party filing fails or neglects to do so after reasonable demand by any party in interest, such party shall be liable in damages in the same amounts and manner as is provided by law for failure of a mortgagee to enter satisfaction of a mortgage. Upon the filing of such a notice of the pendency of an action the clerk shall charge a fee of \$14 and shall enter and index the action in the same manner as for the filing of an original action. Upon the filing of a notice of release, the notice shall likewise be entered on the docket. Except as provided further, the fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the court procedure. 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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court may impose an additional charge, not to exceed \$22 per fee, to fund the costs of non-judicial personnel.

(b) Any notice of the type provided for in subsection (a) which was filed on or after January 10, 1977, and prior to the effective date of this act shall be deemed to impart notice of the pendency of the action in the same manner as if the provisions of subsection (a) were in force and effect on and after January 10, 1977.

(c) Notwithstanding the foregoing provisions of this section, the filing of a notice of the pendency of an action pursuant to subsection (a) shall create no lien rights against the property of an employee of the state or a municipality prior to the date judgment is rendered if the pleadings in the pending action allege a negligent or wrongful act or omission of the employee while acting within the scope of such employee's employment, regardless of whether or not it is alleged in the alternative that the employee was acting outside of such employee's employment. A judgment against an employee shall become a lien upon such employee's property in the county where notice is filed pursuant to subsection (a) when the judgment is rendered only if it is found that: (1) The employee's negligent or wrongful act or omission occurred when the employee was acting outside the scope of such employee's employment; or (2) the employee's conduct which gave rise to the judgment was because of actual fraud or actual malice of the employee. In such cases the lien shall not be effective prior to the date judgment was rendered. As used in this subsection (c), "employee" shall have the meaning ascribed to such term in K.S.A. 75-6102, and amendments thereto.

Sec. 26. On July 1, 2015, K.S.A. 2014 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 \$35 on and after July 1, 2014, if the claim does not exceed \$500; or \$55 on and after July 1, 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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, 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. 27. On July 1, 2015, K.S.A. 2014 Supp. 61-4001 is hereby amended to read as follows: 61-4001. (a) *Docket fee.* (1) No case shall be filed or docketed pursuant to the code of civil procedure for limited actions without the payment of a docket fee in the amount of \$35 on and after July 1, 2013, if the amount in controversy or claimed does not exceed \$500; \$55 on and after July 1, 2013, if the amount in controversy or claimed exceeds \$500 but does not exceed \$5,000; or \$101 on and after July 1, 2013, if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court may impose an additional charge, not to exceed \$19 per docket fee, to fund the costs of non-judicial personnel.

(b) *Poverty affidavit; additional court costs; exemptions for the state and municipalities.* The provisions of ~~subsections (b), (c) and (d) of K.S.A. 60-2001(b), (c) and (d) and 60-2005, and amendments thereto, shall be applicable to lawsuits brought under the code of civil procedure for limited actions.~~

Sec. 28. On July 1, 2015, K.S.A. 2014 Supp. 65-409 is hereby amended to read as follows: 65-409. (a) The clerk of the district court shall charge a fee of \$14 for entering and filing a lien statement under this act.

(b) Except as provided further, the lien fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such lien. 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~~ 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court may impose an additional charge, not to exceed \$22 per lien fee, to fund the costs of non-judicial personnel.

New Sec. 29. Except as provided further, the provisions of this act are not severable, nor are they severable from the provisions of 2014 Senate Substitute for House Bill No. 2338, chapter 82 of the 2014 Session Laws of Kansas. If any provision of this act or of 2014 Senate Substitute for House Bill No. 2338, chapter 82 of the 2014 Session Laws of Kansas, 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 this act without such stayed, invalid or unconstitutional provision and the provisions of this act are hereby declared to be null and void and shall have no force and effect. If the appropriations to the judicial branch for fiscal year 2016 or fiscal year 2017 are reduced below the amounts appropriated in this act by any other act of the 2015 or 2016 regular session of the legislature, the provisions of this section are hereby declared to be null and void and shall have no force and effect and the provisions of this act and of 2014 Senate Substitute for House Bill No. 2338, chapter 82 of the 2014 Session Laws of Kansas, are declared to be severable.

Sec. 30. K.S.A. 2014 Supp. 60-256 is hereby repealed.

Sec. 31. On July 1, 2015, K.S.A. 2014 Supp. 8-2107, 8-2110, 20-362, 20-3021, 21-6614, 21-6614e, 22-2410, 23-2510, 28-170, 28-172a, 28-177, 28-178, 28-179, 32-1049a, 38-2215, 38-2312, 38-2314, 59-104, 60-729, 60-2001, 60-2203a, 61-2704, 61-4001 and 65-409 are hereby repealed.

Sec. 32. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved June 4, 2015.

Published in the *Kansas Register* June 5, 2015.

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## CHAPTER 82

## HOUSE BILL No. 2223

AN ACT concerning alcoholic beverages; amending K.S.A. 41-106, 41-321, 41-709, 41-2609, 41-2633a and 41-2643 and K.S.A. 2014 Supp. 41-102, 41-306, 41-306a, 41-307, 41-311, 41-319, 41-320, 41-326, 41-328, 41-351, 41-710, 41-719, 41-2611, 41-2623, 41-2640 and 41-2645 and repealing the existing sections; also repealing K.S.A. 41-314.

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

New Section 1. (a) Alcoholic liquor shall be dispensed only from original containers, except any drinking establishment licensee or its agent or employee, may dispense:

(1) Alcoholic liquor from a machine or container used to mix alcoholic liquor with other liquids or solids intended for human consumption;

(2) alcoholic liquor from a machine or container used to chill alcoholic liquor, which may contain additional liquids or solids intended for human consumption; or

(3) infused alcoholic liquor from a container used to infuse alcoholic liquor with other substances intended for human consumption.

(b) A drinking establishment licensee, or its agent or employee, shall not refill any original container with any alcoholic liquor or any other substance.

(c) Any drinking establishment licensee, or its agent or employee, may infuse alcoholic liquor with spices, herbs, fruits, vegetables, candy or other substances intended for human consumption if no additional fermentation occurs during the process.

(d) As used in this section:

(1) “Dispense” means to portion out servings of alcoholic liquor for consumption. This term shall include the pouring of drinks of alcoholic liquor and opening original containers of alcoholic liquor by the licensee or licensee’s employee for consumption by customers, and shall not include any self-dispensing by a customer.

(2) “Infuse” means to add flavor or scent to a liquid by steeping additional ingredients in the liquid.

(e) This section shall be part of and supplemental to the club and drinking establishment act.

Sec. 2. K.S.A. 41-106 is hereby amended to read as follows: 41-106. (a) Any citation issued by an agent of the division of alcoholic beverage control for a violation of the liquor control act or the club and drinking establishment act shall be delivered to the person allegedly committing the violation licensee or a person in charge of the licensed premises at the time of the alleged violation. A copy of such citation also shall be delivered by United States mail to the licensee within 30 days of the alleged violation. ~~If such citation and copy are not so delivered, the citation shall be void and unenforceable.~~

(b) Any duly authorized law enforcement officer who observes a vi-

*olation of the liquor control act or the club and drinking establishment act may, after serving notice to the licensee or a person in charge of the licensed premises, submit a report of such violation to the division of alcoholic beverage control for review. Upon receipt of such report, the director shall review the report and determine if administrative action will be taken against the licensee. If the director determines that administrative action will be taken, an administrative citation and notice of administrative action shall be delivered by United States mail to the licensee within 30 days of the date of the alleged violation.*

*(c) The notice required to be served to the licensee or a person in charge of the licensed premises at the time of the alleged violation pursuant to subsection (b) shall be in writing and shall contain the following:*

- (1) The name of the licensee;*
- (2) the date and time of the alleged violation;*
- (3) a description of the alleged violation; and*
- (4) a statement that a report of the alleged violation will be submitted to the division of alcoholic beverage control for review.*

*(d) Any citations not issued in accordance with the provisions of this section shall be void and unenforceable.*

*(e) For purposes of this section, the term “person in charge” means any individual or employee present on the licensed premises at the time of the alleged violation who is responsible for the operation of the licensed premises. If no designated individual or employee is a person in charge, then any employee present is the person in charge.*

New Sec. 3. (a) No form of powdered alcohol shall be sold or offered for sale by any person licensed under the Kansas liquor control act.

(b) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 4. K.S.A. 2014 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

(a) “Alcohol” means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) “Alcoholic liquor” means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) “Beer” means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

(d) “Caterer” has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(e) “Cereal malt beverage” has the meaning provided by K.S.A. 41-2701, and amendments thereto.

(f) “Club” has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(g) “Director” means the director of alcoholic beverage control of the department of revenue.

(h) “Distributor” means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this act or cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2702, and amendments thereto.

(i) “Domestic beer” means beer which contains not more than 10% alcohol by weight and which is manufactured in this state.

(j) “Domestic fortified wine” means wine which contains more than 14%, but not more than 20% alcohol by volume and which is manufactured in this state.

(k) “Domestic table wine” means wine which contains not more than 14% alcohol by volume and which is manufactured without rectification or fortification in this state.

(l) “Drinking establishment” has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(m) “Farm winery” means a winery licensed by the director to manufacture, store and sell domestic table wine and domestic fortified wine.

(n) “Manufacture” means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer or cereal malt beverage.

(o) (1) “Manufacturer” means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt beverage.

(2) “Manufacturer” does not include a microbrewery, microdistillery or a farm winery.

(p) “Microbrewery” means a brewery licensed by the director to manufacture, store and sell domestic beer.

(q) “Microdistillery” means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

(r) “Minor” means any person under 21 years of age.

(s) “Nonbeverage user” means any manufacturer of any of the products set forth and described in K.S.A. 41-501, and amendments thereto, when the products contain alcohol or wine, and all laboratories using alcohol for nonbeverage purposes.

(t) “Original package” means any bottle, flask, jug, can, cask, barrel,

keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. Original container does not include a sleeve.

(u) “Person” means any natural person, corporation, partnership, trust or association.

(v) *“Powdered alcohol” means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a nonalcoholic liquid.*

~~(v)~~(w) “Primary American source of supply” means the manufacturer, the owner of alcoholic liquor at the time it becomes a marketable product or the manufacturer’s or owner’s exclusive agent who, if the alcoholic liquor cannot be secured directly from such manufacturer or owner by American wholesalers, is the source closest to such manufacturer or owner in the channel of commerce from which the product can be secured by American wholesalers.

~~(w)~~(x) (1) “Retailer” means a person who sells at retail, or offers for sale at retail, alcoholic liquors.

(2) “Retailer” does not include a microbrewery, microdistillery or a farm winery.

~~(x)~~(y) “Sale” means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

~~(y)~~(z) “Salesperson” means any natural person who:

(1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor or cereal malt beverage; or

(2) is engaged in promoting the sale of alcoholic liquor or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor or cereal malt beverage, whether the seller resides within the state of Kansas and sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the state of Kansas.

~~(z)~~(aa) “Secretary” means the secretary of revenue.

~~(aa)~~(bb) (1) “Sell at retail” and “sale at retail” refer to and mean sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licensed caterers or holders of temporary permits.

(2) “Sell at retail” and “sale at retail” do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer or a holder of a temporary permit.

~~(bb)~~(cc) “To sell” includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

~~(ee)~~(dd) “Sleeve” means a package of two or more 50-milliliter (3.2-fluid-ounce) containers of spirits.

~~(dd)~~(ee) “Spirits” means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

~~(ee)~~(ff) “Supplier” means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

~~(ff)~~(gg) “Temporary permit” has the meaning provided by K.S.A. 41-2601, and amendments thereto.

~~(gg)~~(hh) “Wine” means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

Sec. 5. K.S.A. 2014 Supp. 41-2640 is hereby amended to read as follows: 41-2640. (a) No club, drinking establishment, caterer or holder of a temporary permit, nor any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person an individual drink at a price that is less than the acquisition cost of the individual drink to the licensee or permit holder;

(3) sell, offer to sell or serve to any person an unlimited number of individual drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;

(4) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of individual drinks as prizes;

(5) *sell, offer to sell or serve free of charge any form of powdered alcohol, as defined in K.S.A. 41-102, and amendments thereto; or*

~~(5)~~(6) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through ~~(4)~~(5).

(b) No public venue, nor any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person a drink or original container of alcoholic liquor or cereal malt beverage at a price that is less than the acqui-

sition cost of the drink or original container of alcoholic liquor or cereal malt beverage to the licensee;

(3) sell or serve alcoholic liquor in glass containers to customers in the general admission area;

(4) sell or serve more than two drinks per customer at any one time in the general admission area;

(5) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes;

(6) *sell, offer to sell or serve free of charge any form of powdered alcohol, as defined in K.S.A. 41-102, and amendments thereto; or*

~~(6)~~(7) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (b)(1) through ~~(5)~~ (6).

(c) A public venue, club, drinking establishment, caterer or holder of a temporary permit may:

(1) Offer free food or entertainment at any time;

(2) sell or deliver wine by the bottle or carafe;

(3) sell, offer to sell and serve individual drinks at different prices throughout any day;

(4) sell or serve beer or cereal malt beverage in a pitcher capable of containing not more than 64 fluid ounces;

(5) offer samples of alcohol liquor free of charge as authorized by this act; or

(6) sell or serve margarita, sangria, daiquiri, mojito or other mixed alcoholic beverages as approved by the director in a pitcher containing not more than 64 fluid ounces.

(d) A hotel of which the entire premises is licensed as a drinking establishment may, in accordance with rules and regulations adopted by the secretary, distribute to its guests coupons redeemable on the hotel premises for drinks containing alcoholic liquor. The hotel shall remit liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A. 79-41a01 et seq., and amendments thereto, on each drink served based on a price which is not less than the acquisition cost of the drink.

(e) (1) *A public venue, club or drinking establishment may offer customer self-service of wine from automated devices on licensed premises so long as the licensee monitors and has the ability to control the dispensing of such wine from the automated devices.*

(2) *The secretary may adopt rules and regulations as necessary to implement the provisions of this subsection.*

(f) A hotel of which the entire premises is not licensed as a drinking establishment may, in accordance with rules and regulations adopted by the secretary, through an agreement with one or more clubs or drinking establishments, distribute to its guests coupons redeemable at such clubs or drinking establishments for drinks containing alcoholic liquor. Each

club or drinking establishment redeeming coupons issued by a hotel shall collect from the hotel the agreed price, which shall be not less than the acquisition cost of the drink plus the liquor drink tax for each drink served. The club or drinking establishment shall collect and remit the liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A. 79-41a01 et seq., and amendments thereto.

~~(f)~~(g) Violation of any provision of this section is a misdemeanor punishable as provided by K.S.A. 41-2633, and amendments thereto.

~~(g)~~(h) Violation of any provision of this section shall be grounds for suspension or revocation of the licensee's license as provided by K.S.A. 41-2609, and amendments thereto, and for imposition of a civil fine on the licensee or temporary permit holder as provided by K.S.A. 41-2633a, and amendments thereto.

Sec. 6. K.S.A. 2014 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 is not a citizen of the United States;
- (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. 2014 Supp. 41-311b, and amendments thereto; *or*

(15) *who, after a hearing before the director, has been found to have held an undisclosed beneficial interest in any license issued pursuant to the liquor control act which was obtained by means of fraud or any false statement made on the application for such license.*

(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. 2014 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. 7. K.S.A. 2014 Supp. 41-2623 is hereby amended to read as follows: 41-2623. (a) No license shall be issued under the provisions of this act to:

(1) Any person described in ~~subsection (a)(1), (2), (4), (5), (6), (7), (8), (9), (12) or (13) of K.S.A. 41-311(a)(1), (2), (4), (5), (6), (7), (8), (9), (12), (13) or (15)~~, and amendments thereto, except that the provisions of subsection (a)(7) of such section shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

(2) A person who has had the person's license revoked for cause under the provisions of this act.

(3) A person who has not been a resident of this state for a period of at least one year immediately preceding the date of application.

(4) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

(A) A license for premises located in a hotel may be granted to a person who has a beneficial interest in one or more other clubs or drinking establishments licensed hereunder if such other clubs or establishments are located in hotels.

(B) A license for a club or drinking establishment which is a restaurant may be issued to a person who has a beneficial interest in other clubs or drinking establishments which are restaurants.

(C) A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment and a license for a club or drinking establishment may be issued to a person who has a beneficial interest in a caterer.

(D) A license for a class A club may be granted to an organization of which an officer, director or board member is a distributor or retailer licensed under the liquor control act if such distributor or retailer sells no alcoholic liquor to such club.

(E) Any person who has a beneficial interest in a microbrewery, microdistillery or farm winery licensed pursuant to the Kansas liquor control act may be issued any or all of the following: (1) Class B club license; (2) drinking establishment license; and (3) caterer's license.

(5) A copartnership, unless all of the copartners are qualified to obtain a license.

(6) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship and residence requirements.

(7) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(8) A corporation organized under the laws of any state other than this state.

(9) 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) of K.S.A. 41-311(a)(6)~~, and amendments thereto, shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to:

(1) A person who does not own the premises for which a license is sought, or does not, at the time the application is submitted, have a written lease thereon, except that an applicant seeking a license for a premises which is owned by a city or county, or is a stadium, arena, convention center, theater, museum, amphitheater or other similar premises may

submit an executed agreement to provide alcoholic beverage services at the premises listed in the application in lieu of a lease.

(2) A person who is not a resident of the county in which the premises sought to be licensed are located.

New Sec. 8. (a) Notwithstanding any other provision of law, any limited liability company applying for a retailer's license under the Kansas liquor control act shall be required to meet the qualifications for licensure of a copartnership under K.S.A. 41-311, and amendments thereto. Any limited liability company applying for a license other than a retailer's license shall be required to meet the qualifications for licensure of a corporation under K.S.A. 41-311 and K.S.A. 2014 Supp. 41-311b, and amendments thereto.

(b) Any limited liability company applying for a license under the Kansas liquor control act shall submit a copy of its articles of organization and operating agreement to the director in such form and manner as prescribed by the director.

(c) This section shall be a part of and supplemental to the Kansas liquor control act.

New Sec. 9. (a) Notwithstanding any other provision of law, any limited liability company applying for a license under the club and drinking establishment act shall be required to meet the qualifications for licensure of a corporation under K.S.A. 41-2623, and amendments thereto.

(b) Any limited liability company applying for a license under the club and drinking establishment act shall submit a copy of its articles of organization and operating agreement to the director in such form and manner as prescribed by the director.

(c) This section shall be a part of and supplemental to the club and drinking establishment act.

New Sec. 10. (a) Notwithstanding any other provision of law, any limited liability company applying for a license under the Kansas cereal malt beverage act shall be required to meet the qualifications for licensure of a corporation under K.S.A. 41-2703, and amendments thereto, except that only those individuals owning in the aggregate 25% or more of the ownership interest in such limited liability company shall be required to meet the qualifications for an individual to obtain a license.

(b) Any limited liability company applying for a license under the Kansas cereal malt beverage act shall submit a copy of its articles of organization and operating agreement to the director in such form and manner as prescribed by the director.

(c) This section shall be a part of and supplemental to the Kansas cereal malt beverage act.

New Sec. 11. (a) The director may suspend, involuntarily cancel or revoke any license issued pursuant to the Kansas liquor control act if,

after notice and an opportunity for a hearing, the director determines that the licensee has:

- (1) Fraudulently obtained the license by providing false information on the application therefor, or at any hearing thereon;
- (2) violated any of the provisions of the Kansas liquor control act, or any rules or regulations adopted pursuant to such act; or
- (3) become ineligible to obtain a license or permit under K.S.A. 41-311 or K.S.A. 2014 Supp. 41-311b, and amendments thereto.

(b) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 12. K.S.A. 2014 Supp. 41-319 is hereby amended to read as follows: 41-319. (a) Except as provided by subsection (b), within 30 days after an application is filed for a retailer's, microbrewery, microdistillery or farm winery license and within 20 days after an application is filed for a manufacturer's, distributor's or nonbeverage user's license, the director shall enter an order either ~~refusing~~ *denying* or granting the license. If the director does not enter an order within the time prescribed, the license applied for shall be deemed to have been ~~refused~~ *denied*. The director, with the written consent of the applicant for a license, may delay entering an order on an application for an additional period of not to exceed 30 days.

(b) In order to complete any national criminal history record check of an applicant who submitted any application after January 31, 2001, and if the applicant is not a resident of the state of Kansas on the date of submission of such application or has not been a resident for at least one year immediately preceding the date of submission of such application the director shall enter an order either ~~refusing~~ *denying* or granting the license within 90 days after such application is filed. If the director does not enter an order within the time prescribed, the license applied for shall be deemed to have been ~~refused~~ *denied*. The director, with the written consent of the applicant for a license, may delay entering an order on an application for an additional period of not to exceed 30 days.

Sec. 13. K.S.A. 2014 Supp. 41-320 is hereby amended to read as follows: 41-320. (a) ~~All proceedings for the suspension and revocation of licenses of manufacturers, distributors, retailers, microbreweries, microdistilleries, farm wineries and nonbeverage users shall be before the director, and the proceedings shall be in accordance with the provisions of the Kansas administrative procedure act. Except as provided in subsection (b), no license shall be suspended or revoked except after a hearing by the director. The provisions of the Kansas administrative procedure act shall apply to all proceedings involving the following:~~

- (1) *Denial of an application for any license to be issued pursuant to the Kansas liquor control act;*

(2) *suspension of any license issued pursuant to the Kansas liquor control act;*

(3) *involuntary cancellation of any license issued pursuant to the Kansas liquor control act;*

(4) *revocation of any license issued pursuant to the Kansas liquor control act; and*

(5) *assessment of any civil fine pursuant to K.S.A. 41-328, and amendments thereto.*

(b) *Except as provided in subsection (c), no license shall be suspended, involuntarily canceled or revoked unless there is an opportunity for a hearing before the director.*

(c) When proceedings for the suspension, *involuntary cancellation* or revocation of a distributor's license are filed and the distributor has been issued more than one license for distributing places of business in this state, any order of the director suspending or revoking the license at any one place of business shall suspend or revoke all licenses issued to the distributor. When one person is the holder of stock or an *ownership interest* in two or more corporations licensed as distributors under the provisions of this act, any order of the director suspending or revoking the license of any such corporation shall operate as a suspension or revocation of the license of all corporations licensed as distributors in which the person is a stockholder.

(d) *Notwithstanding any provision of the law to the contrary, the secretary may designate the director to be the presiding officer in any proceeding conducted pursuant to this section.*

Sec. 14. K.S.A. 41-321 is hereby amended to read as follows: 41-321.

(a) Whenever the director ~~refuses~~ *denies* an application for any license or suspends, *involuntarily cancels* or revokes any license, the director shall prepare an order so providing which shall be signed by the director, or a person designated by the director, and the seal of the director shall be affixed thereto. The order shall state the reason or reasons for the ~~refusal~~ *denial*, suspension, *involuntary cancellation* or revocation. The order shall be served in accordance with the provisions of K.S.A. 77-531, and amendments thereto.

(b) Any applicant or licensee aggrieved by any order of the director may appeal from such order to the secretary by filing a notice of appeal with the secretary. Such notice of appeal must either be mailed to the secretary by certified mail or filed with the secretary within 15 days after service of the order appealed from or, if such appeal is taken because the director has failed to enter the order on an application for a license, within 15 days after the date an application for a license is considered to have been ~~refused~~ *denied* as provided in K.S.A. 41-319, and amendments thereto. The notice of appeal shall be on a form which shall be prescribed and furnished by the secretary. Whenever any such notice of appeal is

filed, the secretary shall notify, in writing, the director of such appeal. ~~The secretary at least 10 days before the time fixed for the hearing shall notify the director and the applicant or licensee of the time when, and place where, the appeal will be heard. The hearing shall be conducted by the secretary, or by a person designated by the secretary, in accordance with the provisions of the Kansas administrative procedure act and shall be held within 30 days after the date of the filing of the notice of appeal unless the person appealing consents to a later hearing.~~

~~The secretary shall adopt, pursuant to K.S.A. 41-210, and amendments thereto, such rules and regulations as necessary to govern the procedure in such hearings. At any such hearing the applicant or licensee and the director may be present in person or by agent or counsel. The secretary or person conducting the hearing shall have the power to adjourn any hearing, but no such adjournment shall be for more than five days unless consented to by the person appealing. Review of a director's order by the secretary shall be conducted in accordance with the provisions of the Kansas administrative procedure act.~~

Sec. 15. K.S.A. 2014 Supp. 41-326 is hereby amended to read as follows: 41-326. (a) A license shall be purely a personal privilege, valid for not to exceed two years after issuance, except as otherwise provided by law, unless sooner suspended, *involuntarily canceled* or revoked, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A license shall not descend by the laws of testate or intestate devolution but shall cease and expire upon the death of the licensee except that executors, administrators or representatives of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale, distribution or manufacture of alcoholic liquor under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such decedent, or after such insolvency or bankruptcy, until the expiration of such license but not longer than one year after the death, bankruptcy or insolvency of such licensee.

(b) When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. The secretary of revenue may adopt rules and regulations pursuant to K.S.A. 41-210, and amendments thereto, which provide for the authorization of refunds of one-half of the license fee paid when the licensee does not use such license for the entire second year of the

license term as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.

Sec. 16. K.S.A. 2014 Supp. 41-328 is hereby amended to read as follows: 41-328. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the director, upon a finding that a licensee under the Kansas liquor control act has violated any provision thereof, may impose on such licensee a civil fine not exceeding \$1,000 for each violation.

(b) No fine shall be imposed pursuant to this section except upon the written order of the director to the licensee who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the licensee to appeal the order. Such order shall be subject to appeal and review in the manner provided by ~~K.S.A. 41-321, 41-322 and 41-323, and amendments thereto~~ *accordance with the provisions of the Kansas administrative procedure act and K.S.A. 41-321, and amendments thereto.*

(c) Any fine imposed 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 state general fund.

(d) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 17. K.S.A. 2014 Supp. 41-719 is hereby amended to read as follows: 41-719. (a) (1) Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(2) Alcoholic liquor may be consumed at a special event *or catered event* held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A. 41-2645, and amendments thereto, for such special event *or when the caterer's licensee has provided the required notification pursuant to K.S.A. 41-2643, and amendments thereto.* ~~Such~~ Any special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any ~~such~~ special event *or catered event.*

(3) No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the governing body of any city, county or township, *or the boundaries of the catered event.* The boundaries of ~~such~~ a special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(4) No person shall possess or consume alcoholic liquor inside the

premises licensed as a special event that was not sold or provided by the licensee holding the temporary permit for such special event.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place; ~~or~~

(5) on the premises of a manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or K.S.A. 2014 Supp. 41-354, and amendments thereto; *or*

(6) *on the premises of an unlicensed business as authorized pursuant to subsection (i).*

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under ~~subsection (c) of K.S.A. 41-308a(e)~~, and amendments thereto, and is consumed only for purposes of judging

competitions; (B) the alcoholic liquor is wine or beer and is sold and consumed during the days of the Kansas state fair on premises leased by the state fair board to a person who holds a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto, authorizing the sale and serving of such wine or beer, or both; or (C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

~~(9) In the Hiram Price Dillon house or on its surrounding premises, subject to limitations established in policies adopted by the legislative coordinating council, as provided by K.S.A. 75-3682, and amendments thereto.~~

~~(10)~~(9) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

~~(11)~~(10) On the premises of any land or waters owned or managed by the department of wildlife, parks and tourism, except as otherwise prohibited by rules and regulations of the department adopted by the secretary pursuant to K.S.A. 32-805, and amendments thereto.

~~(12)~~(11) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f), (g) or (h).

(12) *On the premises of the state capitol building or on its surrounding premises during an official state function of a nonpartisan nature that has been approved by the legislative coordinating council.*

(d) Any city may exempt, by ordinance, from the provisions of subsection (c) specified property the title of which is vested in such city.

(e) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (c) specified property the title of which is vested in such county.

(f) The state board of regents may exempt from the provisions of subsection (c) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic

liquor may be consumed in accordance with policies adopted by such board.

(g) The board of regents of Washburn university may exempt from the provisions of subsection (c) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) The board of trustees of a community college may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(i) (1) *An unlicensed business may authorize patrons or guests of such business to consume alcoholic liquor on the premises of such business provided:*

(A) *Such alcoholic liquor is in the personal possession of the patron and is not sold, offered for sale or given away by the owner of such business or any employees thereof;*

(B) *possession and consumption of alcoholic liquor shall not be authorized between the hours of 12 a.m. and 9 a.m.;*

(C) *the business, or any owner thereof, shall not have had a license issued under either the Kansas liquor control act or the club and drinking establishment act revoked for any reason; and*

(D) *no charge of any sort may be made by the business for the privilege of possessing or consuming alcoholic liquor on the premises, or for mere entry onto the premises.*

(2) *It shall be a violation of this section for any unlicensed business to authorize the possession or consumption of alcoholic liquor by a patron of such business when such authorization is not in accordance with the provisions of this subsection.*

(3) *For the purposes of this subsection, “patron” means a natural person who is a customer or guest of an unlicensed business.*

(j) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.

(k) For the purposes of this section, “special event” means a picnic, bazaar, festival or other similar community gathering, which has been approved by the local governing body of any city, county or township.

Sec. 18. K.S.A. 41-2609 is hereby amended to read as follows: 41-2609. ~~The provisions of K.S.A. 41-320, 41-321, 41-322, 41-323 and 41-324, and amendments thereto, relating to proceedings for the suspension or revocation of licenses issued under the Kansas liquor control act, appeals from orders of the director refusing, suspending or revoking such~~

~~licenses and judicial review of decisions on such appeals and duties of county attorneys relating to such review shall apply in the same manner to proceedings for the suspension or revocation of licenses issued under this act, appeals from orders of the director refusing, suspending or revoking licenses issued under this act, orders refusing temporary permits, appeals from orders of the director and judicial review of decisions on such appeals.~~ (a) *The provisions of the Kansas administrative procedure act shall apply to all proceedings involving the following:*

- (1) *Denial of an application for any license to be issued pursuant to the club and drinking establishment act;*
  - (2) *suspension of any license issued pursuant to the club and drinking establishment act;*
  - (3) *involuntary cancellation of any license issued pursuant to the club and drinking establishment act;*
  - (4) *revocation of any license issued pursuant to the club and drinking establishment act; and*
  - (5) *assessment of any civil fine pursuant to K.S.A. 41-2633a, and amendments thereto.*
- (b) *No license shall be suspended, involuntarily canceled or revoked except after an opportunity for a hearing before the director.*

Sec. 19. K.S.A. 2014 Supp. 41-2611 is hereby amended to read as follows: 41-2611. The director may ~~revoke or suspend~~, *involuntarily cancel or revoke* any license issued pursuant to the club and drinking establishment act for any one or more of the following reasons:

- (a) The licensee has fraudulently obtained the license by giving false information in the application therefor or any hearing thereon.
- (b) The licensee has violated any of the provisions of this act or any rules or regulations adopted hereunder.
- (c) The licensee has become ineligible to obtain a license or permit under this act.
- (d) The licensee's manager or employee has been intoxicated while on duty.
- (e) The licensee, or its manager or employee, has permitted any disorderly person to remain on premises where alcoholic liquor is sold by such licensee.
- (f) There has been a violation of a provision of the laws of this state, or of the United States, pertaining to the sale of intoxicating or alcoholic liquors or cereal malt beverages, or any crime involving a morals charge, on premises where alcoholic liquor is sold by such licensee.
- (g) The licensee, or its managing officers or any employee, has purchased and displayed, on premises where alcoholic liquor is sold by such licensee, a federal wagering occupational stamp issued by the United States treasury department.
- (h) The licensee, or its managing officers or any employee, has pur-

chased and displayed, on premises where alcoholic liquor is sold by such licensee, a federal coin operated gambling device stamp for the premises issued by the United States treasury department.

(i) The licensee holds a license as a class B club, drinking establishment or caterer and has been found guilty of a violation of article 10 of chapter 44 of the Kansas Statutes Annotated, and amendments thereto, under a decision or order of the Kansas human rights commission which has become final or such licensee has been found guilty of a violation of K.S.A. 21-4003, prior to its repeal, or K.S.A. 2014 Supp. 21-6102, and amendments thereto.

(j) There has been a violation of K.S.A. 21-4106 or 21-4107, prior to their repeal, or K.S.A. 2014 Supp. 21-6204, and amendments thereto, on premises where alcoholic liquor is sold by such licensee.

Sec. 20. K.S.A. 41-2633a is hereby amended to read as follows: 41-2633a. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the director, upon a finding that a licensee or temporary permit holder under the club and drinking establishment act has violated any provision thereof, may impose on such licensee or temporary permit holder a civil fine not exceeding \$1,000 for each violation.

(b) No fine shall be imposed pursuant to this section except upon the written order of the director to the licensee or temporary permit holder who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the licensee or temporary permit holder to appeal the order. Such order shall be subject to appeal and review in the manner provided by K.S.A. 41-321, 41-322 and 41-323, and amendments thereto *accordance with the provisions of the Kansas administrative procedure act.*

(c) Any fine imposed pursuant to this section shall be paid to the state treasurer, who shall deposit the same in the state treasury and credit it to the state general fund.

Sec. 21. K.S.A. 2014 Supp. 41-306 is hereby amended to read as follows: 41-306. A spirits distributor's license, shall allow:

(a) The wholesale purchase, importation and storage of spirits, but all such spirits so purchased or imported which are manufactured in the United States shall be purchased from the primary American source of supply or from another licensed spirits distributor, except that a licensed spirits distributor may purchase confiscated spirits at a sheriff's sale.

(b) The sale of spirits to:

(1) Spirits distributors licensed in this state;

(2) retailers licensed in this state, except that such distributor shall sell a brand of spirits only to those retailers whose licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed

with the director pursuant to K.S.A. 41-410, and amendments thereto; and

(3) such persons located outside such territory or outside this state as permitted by law.

(c) The purchase of spirits in barrels, casks or other bulk containers and the bottling thereof before resale, but all bottles or containers filled with such spirits shall be sealed, labeled and otherwise made to comply with all laws and rules and regulations governing the preparation and bottling of spirits by manufacturers and with all federal rules, regulations and laws.

(d) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A. 41-2702, and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

(e) The storage and delivery to a public venue licensed under the club and drinking establishment act of alcoholic liquor purchased by the public venue licensee from a retailer authorized by law to sell such alcoholic liquor to such public venue licensee.

*(f) The withdrawal of spirits from such licensee's inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person's employees. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, provided no sample shall be served on that portion of the premises of a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of spirits shall be subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable current posted bottle or case price. For purposes of providing samples pursuant to this subsection other than at industry seminars or to the licensee's employees, the term "sample" shall have the same meaning as that term is defined in K.S.A. 41-2601, and amendments thereto.*

Sec. 22. K.S.A. 2014 Supp. 41-306a is hereby amended to read as follows: 41-306a. A wine distributor's license shall allow:

(a) The wholesale purchase, importation and storage of wine, but all wine so purchased or imported which is manufactured in the United States shall be purchased from the primary American source of supply or

from another licensed wine distributor, except that a licensed wine distributor may purchase confiscated wine at a sheriff's sale.

(b) The sale of wine to:

(1) Wine distributors licensed in this state;

(2) retailers licensed in this state, except that such distributor shall sell a brand of wine only to those retailers whose licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto; and

(3) such persons located outside such territory or outside this state as permitted by law.

(c) The sale of wine, but only in barrels, casks and other bulk containers, to:

(1) Licensed caterers; and

(2) public venues, clubs and drinking establishments licensed in this state, except that such distributor shall sell a brand of wine only to such public venues, clubs and drinking establishments the licensed premises of which are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto.

(d) The purchase of wine in barrels, casks or other bulk containers and the bottling thereof before resale, but all bottles or containers filled with such wine shall be sealed, labeled and otherwise made to comply with all laws and rules and regulations governing the preparation and bottling of wine by manufacturers and with all federal rules, regulations and laws.

(e) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A. 41-2702, and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

(f) *The withdrawal of wine from such licensee's inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person's employees, or to persons licensed under the club and drinking establishment act, and such person's employees. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, provided no sample shall be served on that portion of the premises of a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. Samples may be served on the premises of a*

*licensee holding a license issued under the club and drinking establishment act, provided no sample shall be served on that portion of the premises that is open to the public and where sales of alcoholic liquor are made. No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of wine shall be subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable current posted bottle or case price. For purposes of providing samples pursuant to this subsection other than at industry seminars or to the licensee's employees, the term "sample" shall have the same meaning as that term is defined in K.S.A. 41-2601, and amendments thereto.*

~~(f)~~(g) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 23. K.S.A. 2014 Supp. 41-307 is hereby amended to read as follows: 41-307. A beer distributor's license shall allow:

- (a) The wholesale purchase, importation and storage of beer.
- (b) The sale of beer to:
  - (1) Licensed caterers;
  - (2) beer distributors licensed in this state;
  - (3) retailers, public venues, clubs and drinking establishments, licensed in this state, except that such distributor shall sell a brand of beer only to those retailers, public venues, clubs and drinking establishments of which the licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto; and
  - (4) such persons located outside such territory or outside this state as permitted by law.
- (c) The sale of cereal malt beverage to:
  - (1) Beer distributors licensed in this state;
  - (2) clubs and drinking establishments, licensed in this state, and retailers licensed under K.S.A. 41-2702, and amendments thereto, except that such distributor shall sell a brand of cereal malt beverage only to those such clubs, drinking establishments and retailers of which the licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto; and
  - (3) such persons located outside such territory or outside this state as permitted by law.
- (d) The purchase of cereal malt beverage in kegs or other bulk containers and the bottling or canning thereof in accordance with law.
- (e) The storage and delivery to a retailer licensed under the Kansas

liquor control act or a retailer licensed under K.S.A. 41-2702, and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

(f) The storage and delivery, with proper invoicing in accordance with rules and regulations adopted by the secretary, on the premises of a public venue licensee, of beer sold to or available for purchase by the public venue during an event.

(g) *The withdrawal of beer or cereal malt beverage from such licensee's inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person's employees, or to persons licensed under the club and drinking establishment act, and such person's employees. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, provided no sample shall be served on that portion of the premises of a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. Samples may be served on the premises of a licensee holding a license issued under the club and drinking establishment act, provided no sample shall be served on that portion of the premises that is open to the public and where sales of alcoholic liquor are made. No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of beer or cereal malt beverage shall be subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable current posted bottle or case price. For purposes of providing samples pursuant to this subsection other than at industry seminars or to the licensee's employees, the term "sample" shall have the same meaning as that term is defined in K.S.A. 41-2601, and amendments thereto.*

Sec. 24. K.S.A. 41-709 is hereby amended to read as follows: 41-709.

(a) No manufacturer or distributor shall sell or deliver any package containing alcoholic liquor manufactured or distributed by such manufacturer or distributor for resale, unless the person to whom such package is sold or delivered is authorized to receive such package in accordance with the provisions of this act.

(b) ~~Notwithstanding any other provision of the Kansas liquor control act, a distributor may withdraw from the distributor's inventory alcoholic liquor or cereal malt beverage for use as samples in the course of the business of the distributor or at industry seminars. The withdrawal of such alcoholic liquor or cereal malt beverage shall be in accordance with rules and regulations adopted by the secretary in accordance with K.S.A. 41-~~

~~210, and amendments thereto, and shall be subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable current posted bottle or case price.~~

(e) The director shall revoke the license of any manufacturer or distributor who violates the provisions of this section.

New Sec. 25. (a) Any person engaged in business as a vineyard with not less than 100 vines may apply to the director for an annual vineyard permit.

(b) A vineyard permit shall authorize the sale in the original, unopened container and the serving by the drink of wine on the premises specified in the permit. A vineyard permit also shall authorize the permit holder to conduct wine tastings in accordance with K.S.A. 2014 Supp. 41-308d, and amendments thereto, on the premises specified in the permit. All wine sold or served by the permit holder shall be produced, in whole or in part, using grapes grown by the permit holder and shall be manufactured by a farm winery.

(c) Any wine not consumed on the premises shall be disposed of by the permit holder or, prior to its removal from the property, securely resealed and placed in a tamper-proof, transparent bag which is sealed in a manner that makes it visibly apparent if the bag is subsequently opened.

(d) Permits issued under this section shall be valid for one year from the date of issuance.

(e) The annual fee for a vineyard permit shall be \$100.

(f) The secretary may adopt rules and regulations as necessary to implement the provisions of this section.

(g) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 26. K.S.A. 41-2643 is hereby amended to read as follows: 41-2643. (a) A caterer's license shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, but only if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(b) A caterer shall be required to derive from sales of food at catered events not less than 30% of the caterer's gross receipts from all sales of food and beverages at catered events in a 12-month period unless the

caterer offers for sale, sells and serves alcoholic liquor only in counties where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A. 41-2646, and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(c) Each caterer shall maintain the caterer's principal place of business in a county in this state where the caterer is authorized by this section to sell alcoholic liquor by the individual drink in a public place. All records of the caterer relating to the caterer's licensed business and the caterer's license shall be kept at such place of business. The caterer's principal place of business shall be stated in the application for a caterer's license and the caterer shall notify the director of any change in its location within 10 days after such change.

~~(d) A caterer shall notify the director at least 10 days prior to any event at which the caterer will sell alcoholic liquor by the individual drink unless the director waives the 10-day requirement for good cause shown. In addition, prior to the event, the caterer shall notify:~~

~~(1) The police chief of the city where the event will take place, if the event will take place within the corporate limits of a city; or~~

~~(2) the county sheriff of the county where the event will take place, if the event will be outside the corporate limits of any city~~ *Except as otherwise provided herein, a caterer shall provide electronic notification to the director at least 48 hours prior to any event at which the caterer will sell alcoholic liquor by the individual drink. The director shall make the electronic notification available to local law enforcement. Notice shall consist of the time, location and the names of the contracting parties of the event. For events where alcohol is served, a licensee shall retain all documents for a period of three years for inspection by the director. The documents retained shall include agreements, receipts, employees assigned to the event and records of alcohol purchased. Notification shall not be required for weddings, funerals, events sponsored by religious institutions, or for business, industry or trade sponsored meetings, including, but not limited to, awards presentations and retirement celebrations.*

(e) A caterer may rebate a portion of the caterer's receipts from the sale of alcoholic liquor at an event to the person or organization contracting with the caterer to sell alcoholic liquor at such event.

Sec. 27. K.S.A. 2014 Supp. 41-710 is hereby amended to read as follows: 41-710. (a) No retailer's license shall be issued for premises unless such premises comply with all applicable zoning regulations.

(b) No microbrewery license, microdistillery license or farm winery license shall be issued for premises which are zoned for any purpose except agricultural, commercial or business purposes.

(c) No retailer's, microbrewery, microdistillery or farm winery license shall be issued for premises which:

(1) Are located within 200 feet of any public or parochial school or college or church, except that if any such school, college or church is established within 200 feet of any licensed premises after the premises have been licensed, the premises shall be an eligible location for retail licensing; or

(2) do not conform to all applicable building regulations.

(d) *Any city, by ordinance, may allow a retailer, microbrewery, microdistillery or farm winery to be located within a core commercial district as defined by K.S.A. 2014 Supp. 12-17,122, and amendments thereto, which does not meet the distance requirements established by subsection (c)(1).*

Sec. 28. K.S.A. 2014 Supp. 41-2645 is hereby amended to read as follows: 41-2645. (a) A temporary permit shall allow the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, subject to the terms of such permit.

(b) The director may issue a temporary permit to any one or more persons or organizations applying for such a permit, in accordance with rules and regulations of the secretary. The permit shall be issued in the names of the persons or organizations to which it is issued.

(c) Applications for temporary permits shall be required to be filed with the director not less than 14 days before the event for which the permit is sought unless the director waives such requirement for good cause. Each application shall state the purposes for which the proceeds of the event will be used. The application shall be upon a form prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a permit fee of \$25 for each day for which the permit is issued, which fee shall be paid by a certified or cashier's check of a bank within this state, United States post office money order or cash in the full amount thereof. All permit fees collected by the director 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 state general fund.

(d) Temporary permits shall specify the premises for which they are issued and shall be issued only for premises where the city, county or township zoning code allows use for which the permit is issued. No tem-

porary permit shall be issued for premises which are not located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, to adopt the proposition amending section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or (B) have approved a proposition to allow the sale of liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(e) (1) A temporary permit may be issued for the consumption of alcoholic liquor on a city, county or township street, alley, road, sidewalk or highway for a special event; provided, that such street, alley, road, sidewalk or highway is closed to motor vehicle traffic by the governing body of such city, county or township for such special event, a written request for such consumption and possession of such alcoholic liquor has been made to the local governing body and the special event is approved by the governing body of such city, county or township by ordinance or resolution. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.

(3) Each licensee selling alcoholic liquor for consumption on the premises of a special event for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor.

(4) For the purposes of this section, "special event" shall have the same meaning given that term in K.S.A. 41-719, and amendments thereto.

(f) (1) Except as otherwise provided in this subsection, a temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit. Not more than four temporary permits may be issued to any one applicant in a calendar year.

(2) (A) *On or before June 30, 2016*, the director may issue one temporary permit, valid for the entire period of time of the Kansas state fair, which authorizes the sale of wine in its original, unopened container and the serving by the drink of only wine or beer, or both, on the state fair-

grounds on premises specified in the temporary permit, by a person who has entered into an agreement with the state fair board for that purpose;

(B) *On and after July 1, 2016, the director may issue a sufficient number of temporary permits as required by the state fair board, valid for the entire period of time of the Kansas state fair, which authorizes the sale of wine in its original, unopened container and the serving by the drink of wine or beer, or both, on the state fairgrounds on premises specified in the temporary permit, by a person who has entered into an agreement with the state fair board for that purpose subject to the conditions imposed by the state fair board. Nothing in this subsection (f)(2)(B) shall be construed to limit the number of temporary permits the director may issue for the sale of wine or beer, or both, on the state fairgrounds consistent with the requirements of the state fair board.*

(3) The director may issue a temporary permit for a special event approved by the governing body of a city, county or township pursuant to subsection (e)(1), which may, at the director's discretion, be valid for the entire period of such special event, but in no event shall such permit be issued for a period of time that exceeds 30 consecutive days.

(g) All proceeds from an event for which a temporary permit is issued shall be used only for the purposes stated in the application for such permit.

(h) Upon written permission from the director and within three business days after the end of an event conducted pursuant to a temporary permit, the holder of a temporary permit may sell back to the licensee from whom alcoholic liquor was purchased any alcoholic liquor sold to the holder of the temporary permit for such event.

(i) A temporary permit shall not be transferable or assignable.

(j) The director may refuse to issue a temporary permit to any person or organization which has violated any provision of the Kansas liquor control act, the drinking establishment act or K.S.A. 79-41a01 et seq., and amendments thereto.

Sec. 29. K.S.A. 2014 Supp. 41-351 is hereby amended to read as follows: 41-351. (a) Notwithstanding any other provisions of the Kansas liquor control act, the club and drinking establishment act or the Kansas cereal malt beverage act, any person who is licensed to sell wine pursuant to K.S.A. 41-308a, and amendments thereto, may apply to the director for an annual ~~bona fide~~ farmers' market sales permit. Such permit shall authorize the licensee, a member of the licensee's family or an employee of the licensee to sell wine in the original unopened container produced and bottled by the licensee at a ~~bona fide~~ farmers' market ~~located at a site approved by the director~~ markets.

(b) *An application submitted pursuant to this section shall be accompanied by an application fee of \$25. Permits issued under this section shall be valid for one year from the date of issuance. A licensee shall not*

~~hold more than one bona fide farmers' market sales permit at any one time.~~

(c) ~~The licensee may only sell wine at a single bona fide farmers' market on one day of the week. The location~~ *locations of the bona fide farmers' market markets at which wine shall be sold shall be specified in the application submitted to the director. If the licensee elects to sell wine at a farmers' market, the location of which was not reported to the director in the application, such licensee shall notify the director of the location before any wine may be sold at that location.* The director shall notify the city, county and applicable law enforcement agency where ~~the bona fide farmers' market is~~ *markets are* to be held and of the issuance of a permit under this section for the sale of wine at such ~~bona fide farmers' market markets.~~

(d) For the purposes of this section, ~~"bona fide farmers' market"~~ means ~~any location held out to be a farmers' market that is subject to inspection by the department of agriculture~~ *common facility or area where producers or growers gather on a regular, recurring basis to sell fruits, vegetables, meats and other farm products directly to consumers.*

(e) The secretary may adopt rules and regulations as necessary to implement the provisions of this section.

(f) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 30. K.S.A. 41-106, 41-314, 41-321, 41-709, 41-2609, 41-2633a and 41-2643 and K.S.A. 2014 Supp. 41-102, 41-306, 41-306a, 41-307, 41-311, 41-319, 41-320, 41-326, 41-328, 41-351, 41-710, 41-719, 41-2611, 41-2623, 41-2640 and 41-2645 are hereby repealed.

Sec. 31. This act shall take effect and be in force from and after its publication in the statute book.

Approved June 5, 2015.

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CHAPTER 83

HOUSE BILL No. 2352

AN ACT concerning insurance; relating to coverage for autism spectrum disorder; motor vehicle liability insurance, mailing notice of termination of coverage; certain financial examinations, consulting fees, examination period; surplus lines insurance, gross premiums and tax thereon; amending K.S.A. 40-2127 and K.S.A. 2014 Supp. 40-223, 40-246c, 40-2,194 and 40-3118 and repealing the existing sections; also repealing K.S.A. 2014 Supp. 40-5701, 40-5702 and 40-5703.

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

Section 1. On January 1, 2016, K.S.A. 2014 Supp. 40-2,194 is hereby amended to read as follows: 40-2,194. (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 neurological 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~~ 101 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~~ 100 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.

Sec. 2. K.S.A. 2014 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, *or any other mail tracking method currently used, approved or accepted by the United States postal service* 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 cov-

ered 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 reregistered 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. 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. 3. K.S.A. 2014 Supp. 40-223 is hereby amended to read as follows: 40-223. (a) (1) Except as provided in K.S.A. 40-110 and 40-253, and amendments thereto, any person who makes any examination under the provisions of this act may receive, as full compensation for such person's services, on a per diem basis an amount fixed by the commissioner, which shall not exceed the amount recommended by the national association of insurance commissioners, for such time necessarily and actually occupied in going to and returning from the place of such examination and for such

time the examiner is necessarily and actually engaged in making such examination including any day within the regular workweek when the examiner would have been so engaged had the company or society been open for business, together with such necessary and actual expenses for traveling and subsistence as the examiner shall incur because of the performance of such services.

(2) For the purposes of this act, “necessary and actual expenses” shall be limited, whether for travel within the state or travel outside the state, to those limitations expressed in K.S.A. 75-3207, and amendments thereto, which pertain to official travel outside the state. The daily charge shall be calculated by dividing the amount the examiner is authorized by the commissioner of insurance to charge per week by the number of days in the regular workweek of the company or society being examined.

(b) (1) All of such compensation, expenses, the employer’s share of the federal insurance contributions act taxes, the employer’s contribution to the Kansas public employees retirement system as provided in K.S.A. 74-4920, and amendments thereto, the self-insurance assessment for the ~~workmen’s~~ workers compensation act as provided in K.S.A. 44-576, and amendments thereto, the employer’s cost of the state health care benefits program under K.S.A. 75-6507, and amendments thereto, a pro rata amount determined by the commissioner to provide vacation and sick leave for the examiner not to exceed the number of days allowed state officers and employees in the classified service pursuant to regulations promulgated in accordance with the Kansas civil service act, all outside consulting and data processing fees necessary to perform any examination, and a pro rata amount determined by the commissioner not to exceed an annual aggregate of \$18,000 to fund the purchase, maintenance and enhancement of examination equipment and computer software shall be paid to the commissioner of insurance by the insurance company or society so examined, on demand of the commissioner.

(2) The amount paid for all outside consulting and data processing fees necessary to perform any financial examination at any one company or society, including examination of such company’s or society’s subsidiaries or any combination thereof, and the pro rata amount to fund the purchase of examination equipment and computer software shall not collectively total more than:

(A) \$50,000 for any insurance company or society which has less than \$200,000,000 in gross premiums, both direct and assumed, in the preceding calendar year; or

(B) ~~\$100,000~~ \$500,000 for any insurance company or society which has \$200,000,000 or more in gross premiums, both direct and assumed, in the preceding calendar year.

(3) The amount paid for all outside consulting and data processing fees necessary to perform any market regulation examination at any one company or society, including examination of such company’s or society’s

subsidiaries, or any combination thereof, and the pro rata amount to fund the purchase of examination equipment and computer software shall not collectively total more than \$25,000.

(c) Such demand shall be accompanied by the sworn statement of the person making such examination, setting forth in separate items the number of days necessarily and actually occupied in going to and returning from the place of such examination, the number of days the examiners were necessarily and actually engaged in making such examination including those days within the regular workweek while the examination was in progress and the company or society had closed for business, and the necessary and actual expenses for traveling and subsistence, incurred in and on account of such services.

(d) A duplicate of every such sworn statement shall be kept on file in the office of the commissioner of insurance. All moneys so paid to the commissioner of insurance 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 insurance company examination fund. The state treasurer shall issue duplicate receipts therefor, one to be delivered to the commissioner of insurance and the other to be filed with the director of accounts and reports.

Sec. 4. K.S.A. 40-2127 is hereby amended to read as follows: 40-2127.

(a) Not later than July 1, 1993, and July 1 of each succeeding year, the board shall submit an audited financial report for the plan for the preceding calendar year to the commissioner in a form provided or prescribed by the commissioner.

(b) The financial status of the plan shall be subject to examination by the commissioner or the commissioner's designee. Such examination shall be conducted at least once every ~~three~~ *five* years ~~beginning January 1, 1995~~. The commissioner shall transmit a copy of the results of such examination to the legislature by February 1 of the year following the year in which the examination is conducted.

New Sec. 5. The following definitions shall apply to K.S.A. 40-246b through 40-246e, and amendments thereto, and section 7, and amendments thereto:

(a) "Exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(1) The person employs or retains a qualified risk manager to negotiate insurance coverage;

(2) the person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of \$100,000 in the immediately preceding 12 months; and

(3) the person:

(A) Possesses a net worth in excess of \$20,040,000, except that this amount shall be adjusted every five years by rules and regulations of the commissioner of insurance to account for the percentage change in the consumer price index;

(B) generates annual revenues in excess of \$55,100,000, except that this amount shall be adjusted every five years by rules and regulations of the commissioner of insurance to account for the percentage change in the consumer price index;

(C) employs more than 500 full-time or full-time-equivalent employees per insured entity or is a member of an affiliated group employing more than 1,000 employees in the aggregate;

(D) is a not-for-profit organization or public entity generating annual budgeted expenditures of at least \$33,060,000, except that this amount shall be adjusted every five years by rules and regulations of the commissioner of insurance to account for the percentage change in the consumer price index; or

(E) is a municipality with a population in excess of 50,000 persons.

(b) “Home state” (1) In general, except as provided in subparagraph (2), the term “home state” means, with respect to an insured:

(A) The state in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence; or

(B) if 100% of the insured risk is located out of the state referred to in paragraph (1)(A), the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

(2) Affiliated groups. If more than one insured from an affiliated group are named insureds on a single non-admitted insurance contract, the term “home state” means the home state, as determined pursuant to paragraph (1), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(c) “Nonadmitted insurer” means an insurer that is not authorized or admitted to transact the business of insurance under the law of the home state, but does not include a risk retention group as that term is defined in 15 U.S.C. § 3901(a)(4), as in effect on July 1, 2015.

(d) “Principal place of business” means, with respect to determining the home state of the insured, the state where the insured maintains its headquarters and where the insured’s high-level officers direct, control and coordinate the business activities of the insured.

(e) “Surplus lines insurance” means insurance procured by a surplus lines licensee from a surplus lines insurer as permitted under the law of the home state. “Surplus lines insurance” shall also mean excess lines insurance as may be defined by applicable state law.

(f) This section shall take effect on and after January 1, 2016.

Sec. 6. On January 1, 2016, K.S.A. 2014 Supp. 40-246c is hereby

amended to read as follows: 40-246c. (a) On March 1 of each year, each licensed agent shall collect and pay to the commissioner a ~~sum-based tax~~ *of 6% on the total gross premiums charged, less any return premiums, for surplus lines insurance provided transacted by the licensee pursuant to the license. Where the insurance covers properties, risks or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on:*

~~(1) An amount equal to 6% of that portion of the gross premiums allocated to this state; plus~~

~~(2) an amount equal to the portion of the premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks or exposures located or to be performed outside of this state; less~~

~~(3) the amount of gross premiums allocated to this state and returned to the insured for insureds whose home state is this state.~~

(b) The tax on any portion of the premium unearned at termination of insurance, if any, having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker. The surplus lines licensee is prohibited from rebating any part of the tax for any reason. ~~To the extent that other states where portions of the properties, risks or exposures reside have failed to enter into a compact or reciprocal allocation procedure with this state, the net premium tax collected shall be retained by this state.~~

(c) The individual responsible for filing the statement shall be the agent who signs the policy or the agent of record with the company. The commissioner of insurance shall collect double the amount of tax herein provided from any licensee or other responsible individual as herein described who shall fail, refuse or neglect to transmit the required affidavit or statement or shall fail to pay the tax imposed by this section, to the commissioner within the period specified.

New Sec. 7. (a) A surplus lines producer seeking to place non-admitted insurance for an exempt commercial purchaser is not required to file the signed statement under K.S.A. 40-246b, and amendments thereto, if the surplus lines producer has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight and the exempt commercial purchaser has subsequently requested in writing the surplus lines producer to procure or place such insurance from a nonadmitted insurer.

(b) This section shall take effect on and after January 1, 2016.

New Sec. 8. The commissioner of insurance may adopt such rules and regulations as are reasonable, necessary and incidental to the enforcement and administration of the provisions of K.S.A. 2014 Supp. 40-246b

through 40-246e and section 3, and amendments thereto. Such rules and regulations shall be adopted no later than January 1, 2017.

(b) This section shall take effect on and after January 1, 2016.

Sec. 9. K.S.A. 40-2127 and K.S.A. 2014 Supp. 40-223 and 40-3118 are hereby repealed.

Sec. 10. On January 1, 2016, K.S.A. 2014 Supp. 40-246c, 40-2,194, 40-5701, 40-5702 and 40-5703 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved June 5, 2015.

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## CHAPTER 84

Senate Substitute for HOUSE BILL No. 2228

AN ACT concerning abortion; relating to the administration of abortifacient drugs; amending K.S.A. 2014 Supp. 65-4a10 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 65-4a10 is hereby amended to read as follows: 65-4a10. (a) No abortion shall be performed or induced by any person other than a physician licensed to practice medicine in the state of Kansas.

(b) (1) *Except in the case of an abortion performed in a hospital through inducing labor: (A) When RU-486 (mifepristone) or any drug is used for the purpose of inducing an abortion, the drug must shall initially be administered by or in the same room and in the physical presence of the physician who prescribed, dispensed or otherwise provided the drug to the patient; and (B) when any other drug is used for the purpose of inducing an abortion, the drug or the prescription for such drug shall be given to the patient by or in the same room and in the physical presence of the physician who prescribed, dispensed or otherwise provided the drug or prescription to the patient.*

(2) *The provisions of this subsection shall not apply in the case of a medical emergency.*

~~(b)~~(c) The physician inducing the abortion, or a person acting on behalf of the physician inducing the abortion, shall make all reasonable efforts to ensure that the patient returns 12 to 18 days after the administration or use of such drug for a subsequent examination so that the physician can confirm that the pregnancy has been terminated and assess the patient's medical condition. A brief description of the efforts made to comply with this subsection, including the date, time and identification

by name of the person making such efforts, shall be included in the patient's medical record.

~~(e)~~(d) A violation of this section shall constitute unprofessional conduct under K.S.A. 65-2837, and amendments thereto.

Sec. 2. K.S.A. 2014 Supp. 65-4a10 is hereby repealed.

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

Approved June 5, 2015.

Published in the *Kansas Register* June 11, 2015.

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## CHAPTER 85

### HOUSE BILL No. 2183

AN ACT concerning governmental ethics; relating to candidate and lobbyist fees and filings; relating to use of campaign funds; certain prohibited actions by candidates; relating to political campaigns and technology; concerning political signs; amending K.S.A. 25-904, 25-4157, 25-4173, 46-222 and 46-268 and K.S.A. 2014 Supp. 25-4119f, 25-4145, 25-4148a, 25-4153a, 25-4156, 25-4157a, 25-4169a and 46-265 and repealing the existing sections.

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

New Section 1. (a) Every person who is registered as a lobbyist shall file with the secretary of state a detailed report listing the amount of public funds paid to hire or contract for the lobbying services on behalf of: (1) A governmental entity; or (2) any association of governmental entities that receive public funds. The report shall include a listing of the amount of public funds paid to hire or contract for the lobbying services of such lobbyist and which association of governmental entities that receive public funds hired such lobbyist on a form and in the manner prescribed and provided by the governmental ethics commission. Each report required to be filed by this section is a public record and shall be open to public inspection upon request. A report shall be filed on or before January 10, 2017, and on or before January 10 of each subsequent year for the reporting period containing the preceding calendar year.

(b) The reports filed with the secretary of state pursuant to subsection (a) shall be made available on a searchable public website by the secretary of state.

(c) As used in this section:

(1) "Governmental entity" has the meaning as defined in K.S.A. 75-6102, and amendments thereto.

(2) "Lobbying" has the meaning as defined in K.S.A. 46-225, and amendments thereto.

(3) “Public funds” means moneys appropriated by the state or any of its subdivisions.

Sec. 2. K.S.A. 25-904 is hereby amended to read as follows: 25-904.

(a) Every candidate for election to any city of the second and third class, unified school district, community college or township office subject to this act who intends to expend or have expended on such person’s behalf an aggregate amount or value of less than ~~\$500~~ \$1,000, exclusive of such candidate’s filing fee, and who intends to receive or have received on such person’s behalf contributions in an aggregate amount or value of less than ~~\$500~~ \$1,000 in each of the primary and the general election elections shall file, not later than the ninth day preceding the primary election, an affidavit of such intent with the county election officer of the county of residence of the candidate. No report required by subsection (b) shall be required to be filed by or for such candidate.

(b) Except as provided in subsection (a) it shall be the duty of every candidate for nomination or for election to any city of the second and third class, unified school district, community college or township office subject to this act, within 30 days after each primary, general or special election, to file with the county election officer an itemized statement under oath stating the name and address of each person who has made any contribution in excess of \$50 during the election period together with the amount and date of such contributions and an itemized statement of all expenditures made by such candidate or obligations contracted or incurred by such candidate in connection with each primary, general or special election.

(c) No candidate which is subject to the provisions of the campaign finance act ~~(, K.S.A. 25-4142 et seq., and amendments thereto)~~, shall be required to file any report required by this section.

(d) Any candidate who has signed an affidavit pursuant to subsection (a) and who incurs expenses in excess of or receives contributions in excess of ~~\$500~~ \$1,000, exclusive of such candidate’s filing fee for either the primary or the general election, shall file the report required by subsection (b).

Sec. 3. K.S.A. 2014 Supp. 25-4148a is hereby amended to read as follows: 25-4148a. When a report is made under this act and the amount being contributed by an individual is over \$150, the report shall list the occupation ~~and industry~~ of the individual contributor. If the individual contributor is not employed for compensation then the report shall list the occupation ~~and industry~~ of the contributor’s spouse.

Sec. 4. K.S.A. 2014 Supp. 25-4119f is hereby amended to read as follows: 25-4119f. (a) In addition to any other fee required by law, every person becoming a candidate for the following offices shall pay a fee at the time of filing for such office in the amount prescribed by this section:

- (1) Governor and lieutenant governor ..... ~~\$480~~ \$650;

- (2) state offices elected by statewide election, other than the governor and lieutenant governor ..... ~~\$480~~-\$650;
- (3) state senator, state representative, state board of education, district attorney, board of public utilities of the city of Kansas City and elected county offices ..... ~~\$35~~-\$50; and
- (4) members of boards of education of unified school districts having 35,000 or more pupils regularly enrolled in the preceding school year, members of governing bodies of cities of the first class and judges of the district court in judicial districts in which judges are elected ..... ~~\$35~~-\$50.

(b) The secretary of state shall remit all fees received by that office to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. County election officers receiving fees in accordance with this section shall remit such fees to the county treasurer of the county who shall quarterly remit the same to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics commission fee fund.

Sec. 5. K.S.A. 2014 Supp. 25-4145 is hereby amended to read as follows: 25-4145. (a) Each party committee and each political committee which anticipates receiving contributions or making expenditures shall appoint a chairperson and a treasurer. The chairperson of each party committee and each political committee which anticipates receiving contributions or making expenditures for a candidate for state office shall make a statement of organization and file it with the secretary of state not later than 10 days after establishment of such committee. The chairperson of each political committee which anticipates receiving contributions or making expenditures for any candidate for local office, shall make a statement of organization and file it with the county election officer not later than 10 days after establishment of such committee.

(b) Every statement of organization shall include:

- (1) The name and address of the committee. The name of the committee shall reflect the full name of the organization with which the committee is connected or affiliated or sufficiently describe such affiliation. If the political committee is not connected or affiliated with any one organization, the name shall reflect the trade, profession or primary interest of the committee as reflected by the statement of purpose of such organization;
- (2) the names and addresses of the chairperson and treasurer of the committee;
- (3) the names and addresses of affiliated or connected organizations; and
- (4) in the case of a political committee, the full name of the organi-

zation with which the committee is connected or affiliated or, name or description sufficiently describing the affiliation or, if the committee is not connected or affiliated with any one organization, the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(c) Any change in information previously reported in a statement of organization shall be reported on a supplemental statement of organization and filed not later than 10 days following the change.

(d) (1) Each political committee which anticipates receiving contributions shall register annually with the commission on or before July 1 of each year. Each political committee registration shall be in the form and contain such information as may be required by the commission.

(2) Each registration by a political committee anticipating the receipt of \$2,501 or more in any calendar year shall be accompanied by an annual registration fee of ~~\$240~~ \$300.

(3) Each registration by a political committee anticipating the receipt of more than \$500 but less than \$2,501 in any calendar year shall be accompanied by an annual registration fee of ~~\$35~~ \$50.

(4) Each registration by a political committee anticipating the receipt of \$500 or less in any calendar year shall be accompanied by an annual registration fee of ~~\$20~~ \$25.

(5) Any political committee which is currently registered under subsection (d)(3) or (d)(4) and which receives contributions in excess of \$2,500 for a calendar year, shall file, within three days of the date when contributions exceed such amount, an amended registration form which shall be accompanied by an additional fee for such year equal to the difference between ~~\$240~~ \$300 and the amount of the fee that accompanied the current registration.

(6) Any political committee which is currently registered under subsection (d)(4) and which receives contributions in excess of \$500 but which are less than \$2,501, shall file, within three days of the date when contributions exceed \$500, an amended registration form which shall be accompanied by an additional fee of ~~\$20~~ \$25 for such year.

(e) All such fees received by or for the commission 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 governmental ethics commission fee fund.

Sec. 6. K.S.A. 2014 Supp. 25-4153a is hereby amended to read as follows: 25-4153a. (a) No registered lobbyist, political committee or person, other than an individual, shall make a contribution after January 1 of each year and prior to adjournment sine die of the regular session of the legislature or at any other time in which the legislature is in session to a:

- (1) Legislator;
- (2) candidate for membership in the legislature;
- (3) state officer elected on a statewide basis;
- (4) candidate for state officer elected on a statewide basis;
- (5) candidate committee of persons described in paragraphs (1) through (4); or

(6) political committee established by a state committee of any political party and designated as a recognized political committee for the senate or house of representatives.

(b) No legislator, officer, candidate or committee described in ~~paragraphs (1) through (6)~~ of subsection (a)(1) through (6) shall accept or knowingly solicit any contribution as defined by K.S.A. 25-4143, and amendments thereto, from any registered lobbyist, political committee or person, other than an individual, during such period of time described in subsection (a), *except that a general public solicitation which does not solicit a specific individual and is distributed via social media shall be permissible.*

(c) *For the purposes of this act, “social media” means an electronic medium which allows users to create and view user-generated content, including, but not limited to, uploaded or downloaded videos or photographs, blogs, audio files, instant messages or email.*

Sec. 7. K.S.A. 2014 Supp. 25-4156 is hereby amended to read as follows: 25-4156. (a) (1) Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes.

(2) Intentionally charging an excessive amount for political advertising is a class A misdemeanor.

(b) (1) *Except as provided in subsection (2), corrupt political advertising of a state or local office is:*

(A) Publishing or causing to be published in a newspaper or other periodical any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the word “advertisement” or the abbreviation “adv.” in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(B) broadcasting or causing to be broadcast by any radio or television station any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: “Paid for” or “Sponsored by” followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organ-

ization sponsoring the same or the name of the individual who is responsible therefor;

(C) telephoning or causing to be contacted by any telephonic means including, but not limited to, any device using a voice over internet protocol or wireless telephone, any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is preceded by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(D) publishing or causing to be published any brochure, flier or other political fact sheet which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subparagraph (D) requiring the disclosure of the name of an individual shall not apply to individuals making expenditures in an aggregate amount of less than \$2,500 within a calendar year; or

(E) making or causing to be made any website, e-mail or other type of internet communication which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subparagraph (E) requiring the disclosure of the name of an individual shall apply only to any website, e-mail or other type of internet communication which is made by the candidate, the candidate's candidate committee, a political committee or a party committee and such website, e-mail or other internet communication viewed by or disseminated to at least 25 individuals. For the purposes of this subparagraph, the terms "candidate," "candidate committee," "party committee" and "political committee" shall have the meanings ascribed to them in K.S.A. 25-4143, and amendments thereto.

(2) *The provisions of subsections (b)(1)(C) and (E) shall not apply to the publication of any communication which expressly advocates the nomination, election or defeat of a clearly identified candidate for state or local office, if such communication is made over any social media provider which has a character limit of 200 characters or fewer.*

(3) Corrupt political advertising of a state or local office is a class C misdemeanor.

(c) If any provision of this section or application thereof to any person

or circumstance is held invalid, such invalidity does not affect other provisions or applications of this section which can be given effect without the invalid application or provision, and to this end the provisions of this section are declared to be severable.

Sec. 8. K.S.A. 25-4157 is hereby amended to read as follows: 25-4157. (a) Before any candidate committee, party committee or political committee may be dissolved or the position of a candidate's treasurer terminated, the treasurer of the candidate or such committee shall file a termination report which shall include full information as to the disposition of residual funds. Any report required by K.S.A. 25-4148, and amendments thereto, may be a termination report. Reports of the dissolution of candidate committees of candidates for state office, the termination of the treasurer of a candidate for state office, the dissolution of a political committee the major purpose of which is to support or oppose any candidate for state office and the dissolution of party committees shall be filed in the office of the secretary of state. Reports of the dissolution of candidate committees of candidates for local office, the termination of the treasurer of a candidate for local office and the dissolution of a political committee the major purpose of which is to support or oppose any candidate for local office shall be filed in the office of the county election officer of the county.

(b) *If a candidate dies with an open candidate committee account which contains campaign funds, the executor or administrator of the candidate's estate shall be responsible for terminating the candidate committee and disposing of the residual funds.*

Sec. 9. K.S.A. 2014 Supp. 25-4157a is hereby amended to read as follows: 25-4157a. (a) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for:

- (1) Legitimate campaign purposes;
- (2) expenses of holding political office;
- (3) contributions to the party committees of the political party of which such candidate is a member;
- (4) any membership dues related to the candidate's campaign paid to a community service or civic organization in the name of the candidate;
- (5) any donations paid to ~~a~~ *any organization which is recognized as a 501(c)(3) tax exempt organization or any religious organization*, community service or civic organization in the name of the candidate or candidate committee of any candidate but only if the candidate receives no goods or services unrelated to the candidate's campaign as a result of the payment of such donations;
- (6) expenses incurred in the purchase of tickets to meals and special

events sponsored by any organization the major purpose of which is to promote or facilitate the social, business, commercial or economic well being of the local community; or

(7) expenses incurred in the purchase and mailing of greeting cards to voters and constituents.

For the purpose of this subsection, expenditures for “personal use” shall include expenditures to defray normal living expenses for the candidate or the candidate’s family and expenditures for the personal benefit of the candidate having no direct connection with or effect upon the campaign of the candidate or the holding of public office.

(b) No moneys received by any candidate or candidate committee of any candidate as a contribution shall be used to pay interest or any other finance charges upon moneys loaned to the campaign by such candidate or the spouse of such candidate.

(c) No candidate or candidate committee shall accept from any other candidate or candidate committee for any candidate for local, state or national office, any moneys received by such candidate or candidate committee as a campaign contribution. The provisions of this subsection shall not be construed to prohibit a candidate or candidate committee from accepting moneys from another candidate or candidate committee if such moneys constitute a reimbursement for one candidate’s proportional share of the cost of any campaign activity participated in by both candidates involved. Such reimbursement shall not exceed an amount equal to the proportional share of the cost directly benefiting and attributable to the personal campaign of the candidate making such reimbursement.

(d) At the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds otherwise not obligated for the payment of expenses incurred in such campaign or the holding of office shall be contributed to a charitable organization, as defined by the laws of the state, contributed to a party committee or returned as a refund in whole or in part to any contributor or contributors from whom received or paid into the general fund of the state.

Sec. 10. K.S.A. 2014 Supp. 25-4169a is hereby amended to read as follows: 25-4169a. (a) (1) No officer or employee of the state of Kansas, or any municipality, shall use or authorize the use of public funds or public vehicles, machinery, equipment or supplies of any such governmental agency or the time of any officer or employee of any such governmental agency, for which the officer or employee is compensated by such governmental agency, to expressly advocate the nomination, election or defeat of a clearly identified candidate to state office or local office. The provisions of this section prohibiting the use of time of any officer or employee for such purposes shall not apply to an incumbent officer campaigning for nomination or reelection to a succeeding term to such office

or to members of the personal staff of any elected officer. The provisions of this section shall not apply to the statutory duties of the commission on judicial performance pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto.

(2) *The provisions of this subsection shall not apply to the use of internet connectivity provided by the state of Kansas or any municipality to any candidate or elected official.*

(3) Except as otherwise provided in this section, no municipality shall permit or allow any person to distribute, or cause to be distributed, within any building or other structure owned, leased or rented by such municipality any brochure, flier, political fact sheet or other document which expressly advocates the nomination, election or defeat of a clearly identified candidate for state or local office unless each candidate for such state or local office is permitted or allowed to do so in the same manner.

~~(3)~~(4) For the purposes of this subsection, the term municipality shall have the meaning ascribed to it in K.S.A. 12-105a, and amendments thereto.

(b) Any person violating the provisions of this section shall be guilty of a class C misdemeanor.

Sec. 11. K.S.A. 25-4173 is hereby amended to read as follows: 25-4173. Every candidate for state or local office who intends to expend or have expended on such person's behalf an aggregate amount or value of less than ~~\$500~~ \$1,000, exclusive of such candidate's filing fee, and who intends to receive or have received on such person's behalf contributions in an aggregate amount or value of less than ~~\$500~~ \$1,000 in each of the primary and ~~the~~ general elections shall file, not later than the ninth day preceding the primary election, an affidavit of such intent with the secretary of state for state offices. In the case of a candidate for a local office, such affidavit also shall be filed with the county election officer of the county in which the name of the candidate is on the ballot. No report required by K.S.A. 25-4148, and amendments thereto, shall be required to be filed by or for such candidate.

Sec. 12. K.S.A. 46-222 is hereby amended to read as follows: 46-222.

(a) "Lobbyist" means: (1) Any person employed in considerable degree for lobbying; (2) any person formally appointed as the primary representative of an organization or other person to lobby in person on state-owned or leased property; or (3) any person who makes expenditures in an aggregate amount of ~~\$100~~ \$1,000 or more, exclusive of personal travel and subsistence expenses, in any calendar year for lobbying.

(b) "Lobbyist" shall not include: (1) Any state officer or employee engaged in carrying out the duties of their office; (2) the employer of a lobbyist, if such lobbyist has registered the name and address of such employer under K.S.A. 46-265, and amendments thereto; (3) any non-profit organization which has qualified under ~~paragraph (3) of subsection~~

~~(e) of section 501(c)(3) of the internal revenue code of 1954 1986, as amended, which is interstate in its operations and of which a primary purpose is the nonpartisan analysis, study or research of legislative procedures or practices and the dissemination of the results thereof to the public, irrespective of whether such organization may recommend a course of action as a result of such analysis, study or research; (4) any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or, any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch; or (5) any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in ~~subsection (e) of K.S.A. 75-3223(e)~~, and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board.~~

Sec. 13. K.S.A. 2014 Supp. 46-265 is hereby amended to read as follows: 46-265. (a) Every lobbyist shall register with the secretary of state by completing and signing a registration form prescribed and provided by the commission. Such registration shall show the name and address of the lobbyist, the name and address of the person compensating the lobbyist for lobbying, the purpose of the employment and the method of determining and computing the compensation of the lobbyist. If the lobbyist is compensated or to be compensated for lobbying by more than one employer or is to be engaged in more than one employment, the relevant facts listed above shall be stated separately for each employer and each employment. Whenever any new lobbying employment or lobbying position is accepted by a lobbyist already registered as provided in this section, such lobbyist shall report the same on forms prescribed and provided by the commission before engaging in any lobbying activity related to such new employment or position, and such report shall be filed with the secretary of state. When a lobbyist is an employee of a lobbying group or firm which contracts to lobby and not an owner or partner of such entity, the lobbyist shall report each client of the group, firm or entity whose interest the lobbyist represents. Whenever the lobbying of a lobbyist concerns a legislative matter, the secretary of state promptly shall transmit copies of each registration and each report filed under this act to the secretary of the senate and the chief clerk of the house of representatives.

(b) On or after October 1, in any year any person may register as a lobbyist under this section for the succeeding calendar year. Such registration shall expire annually on December 31; of the year for which the lobbyist is registered. In any calendar year, before engaging in lobbying,

persons to whom this section applies shall register or renew their registration as provided in this section. Except for employees of lobbying groups or firms, every person registering or renewing registration who anticipates spending \$1,000 or less for lobbying in such registration year on behalf of any one employer shall pay to the secretary of state a fee of ~~\$35~~ \$50 for lobbying for each such employer. Except for employees of lobbying groups or firms, every person registering or renewing registration who anticipates spending more than \$1,000 for lobbying in such registration year on behalf of any one employer shall pay to the secretary of state a fee of ~~\$300~~ \$350 for lobbying for such employer. Any lobbyist who at the time of initial registration anticipated spending less than \$1,000, on behalf of any one employer, but at a later date spends in excess of such amount, within three days of the date when expenditures exceed such amount, shall file an amended registration form which shall be accompanied by an additional fee of ~~\$220~~ \$300 for such year. Every person registering or renewing registration as a lobbyist who is an employee of a lobbying group or firm and not an owner or partner of such entity shall pay an annual fee of ~~\$360~~ \$450. The secretary of state shall remit all moneys received under this section 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 governmental ethics commission fee fund.

(c) Any person who has registered as a lobbyist pursuant to this act may file, upon termination of such person's lobbying activities, a statement terminating such person's registration as a lobbyist. Such statement shall be on a form prescribed by the commission and shall state the name and address of the lobbyist, the name and address of the person compensating the lobbyist for lobbying and the date of the termination of the lobbyist's lobbying activities.

(d) No person who has failed or refused to pay any civil penalty imposed pursuant to K.S.A. 46-280, and amendments thereto, shall be authorized or permitted to register as a lobbyist in accordance with this section until such penalty has been paid in full.

Sec. 14. K.S.A. 46-268 is hereby amended to read as follows: 46-268.

(a) Except as otherwise provided in subsection (b), every lobbyist shall file with the secretary of state a report of employment and expenditures on a form and in the manner prescribed and provided by the commission. A report shall be filed on or before the 10th day of the months of February, March, April, May, September and January. Reports shall include all expenditures which are required to be reported under K.S.A. 46-269, and amendments thereto, or a statement that no expenditures in excess of \$100 were made for such purposes, during the preceding calendar month or months since the period for which the last report was filed.

(b) For any calendar year in which a lobbyist expects to expend an aggregate amount of less than \$100 for lobbying in each reporting period, a lobbyist shall file an affidavit of such intent with the secretary of state. Such lobbyist shall not be required to file the reports required under subsection (a) for the year for which such affidavit is filed ~~but shall file a report on or before January 10, which shall include all expenditures made in the preceding calendar year which are required to be reported under K.S.A. 46-269, and amendments thereto.~~ If in any reporting period a lobbyist filing such affidavit expends in excess of \$100 in reportable expenses, a report shall be filed for such period in the manner prescribed by subsection (a).

New Sec. 15. No city or county shall regulate or prohibit the placement of or the number of political signs on private property or the unpaved right-of-way for city streets or county roads on private property during the 45-day period prior to any election and the two-day period following any such election. Cities and counties may regulate the size and a set-back distance for the placement of signs so as not to impede sight lines or sight distance for safety reasons.

Sec. 16. K.S.A. 25-904, 25-4157, 25-4173, 46-222 and 46-268 and K.S.A. 2014 Supp. 25-4119f, 25-4145, 25-4148a, 25-4153a, 25-4156, 25-4157a, 25-4169a and 46-265 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.

Approved June 5, 2015.

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## CHAPTER 86

### House Substitute for SENATE BILL No. 11

AN ACT concerning state officers and employees; relating to duties of the secretary of administration; concerning essential state employees; amending K.S.A. 2014 Supp. 75-3747 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 75-3747 is hereby amended to read as follows: 75-3747. (a) The secretary of administration shall:

(1) As provided in K.S.A. 75-3706, and amendments thereto, adopt, modify and adopt or reject rules and regulations prepared and recommended by the director of personnel services for carrying out the purposes of this act and the Kansas civil service act;

(2) perform all powers and duties prescribed by law with respect to civil service and personnel administration. *On June 5, 2015, through sine die adjournment of the 2015 regular legislative session, for the purposes*

*of civil service and personnel administration relating to state officers or employees being furloughed, every state officer or employee shall be considered an essential officer or employee;*

(3) adopt, as provided in K.S.A. 75-3706, and amendments thereto, special rules and regulations or exceptions to general rules and regulations for those agencies listed in K.S.A. 75-2934, and amendments thereto, to insure compliance with federal laws and regulations;

(4) when the services of the division of personnel services and the state civil service board are required, enter into agreements with the state adjutant general whereby the cost incurred in connection with the assignment of positions to classes and with the examination, selection, promotion, transfer, discipline or hearing of appeals of employees in county, city and interjurisdictional disaster agencies and in the division of emergency management under the jurisdiction of the adjutant general shall be paid in whole or in part from moneys granted by the federal government for the administration of state laws and state plans administered by the adjutant general; *and*

(5) when necessary to facilitate activities relating to civil service and personnel administration, enter into contracts with other state agencies for such purposes.

(b) The adjutant general may enter into the agreements described in ~~paragraph (5) of subsection (a)~~(5) with the secretary of administration. All moneys paid under such agreements or from other sources 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.

(c) The secretary of administration may:

(1) Perform duties and functions provided in the Kansas civil service act;

(2) make investigations either at the request of the governor, or upon petition of a citizen for just cause, or of its own motion, concerning the enforcement and effect of the Kansas civil service act; and

(3) make the services and facilities of the division of personnel services and its staff available upon request, subject to rules and regulations adopted as provided in K.S.A. 75-3706, and amendments thereto, to political subdivisions of the state.

(d) In making available the service and facilities prescribed in ~~paragraph (3) of subsection (c)~~(3), it shall be understood that requirements for the enforcement and administration of the provisions of this act shall be given precedence and that the political subdivisions shall reimburse the state for the reasonable cost of such services and facilities, and such reimbursement 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 each such remittance, the state treasurer shall deposit

the entire amount in the state treasury to the credit of the state general fund.

Sec. 2. K.S.A. 2014 Supp. 75-3747 is hereby repealed.

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

Approved June 6, 2015.

Published in the *Kansas Register* June 6, 2015.

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## CHAPTER 87

### SENATE BILL No. 34

AN ACT concerning elections; relating to voting; penalties for voting crimes; prosecution of election crimes; amending K.S.A. 25-2409, 25-2416, 25-2423 and 25-2431 and K.S.A. 2014 Supp. 25-1128 and 25-2507 and repealing the existing sections.

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

New Section 1. (a) Voting more than once is intentionally:

(1) Voting or attempting to vote more than once in the same jurisdiction in an election held on a particular date;

(2) voting or attempting to vote in more than one jurisdiction in the United States in an election held on a particular date;

(3) inducing or aiding any person to vote more than once in the same jurisdiction in an election held on a particular date; or

(4) inducing or aiding any person to vote in more than one jurisdiction in the United States in an election held on a particular date.

(b) Voting more than once or attempting to commit the crime of voting more than once is a severity level 7, nonperson felony.

(c) The provisions of K.S.A. 2014 Supp. 21-5301(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of voting more than once pursuant to this section.

(d) This section shall be part of and supplemental to article 24 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 2. (a) Independent authority to prosecute any person who has committed or attempted to commit any act that constitutes a Kansas elections crime defined in K.S.A. 25-1128, and amendments thereto or article 24 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto, shall be vested in:

(1) The district attorney or county attorney of the county where such act occurred;

(2) the Kansas attorney general; or

(3) the Kansas secretary of state.

(b) If one of the officers listed in subsection (a) has commenced the

prosecution of a person who has committed or attempted to commit any act that constitutes a Kansas election crime, the other officers listed in subsection (a) may provide assistance to the prosecuting officer but shall not commence a separate prosecution.

Sec. 3. K.S.A. 2014 Supp. 25-1128 is hereby amended to read as follows: 25-1128. (a) No voter shall knowingly mark or transmit to the county election officer more than one advance voting ballot, or set of one of each kind of ballot, if the voter is entitled to vote more than one such ballot at a particular election.

(b) Except as provided in K.S.A. 25-1124, and amendments thereto, no person shall knowingly interfere with or delay the transmission of any advance voting ballot application from a voter to the county election officer, nor shall any person mail, fax or otherwise cause the application to be sent to a place other than the county election office. Any person or group engaged in the distribution of advance voting ballot applications shall mail, fax or otherwise deliver any application signed by a voter to the county election office within two days after such application is signed by the applicant.

(c) Except as otherwise provided by law, no person other than the voter, shall knowingly mark, sign or transmit to the county election officer any advance voting ballot or advance voting ballot envelope.

(d) Except as otherwise provided by law, no person shall knowingly sign an application for an advance voting ballot for another person. This provision shall not apply if a voter has a disability preventing the voter from signing an application or if an immediate family member signs an application on behalf of another immediate family member with proper authorization being given.

(e) No person, unless authorized by K.S.A. 25-1122 or K.S.A. 25-1124, and amendments thereto, shall knowingly intercept, interfere with, or delay the transmission of advance voting ballots from the county election officer to the voter.

(f) No person shall knowingly and falsely affirm, declare or subscribe to any material fact in an affirmation form for an advance voting ballot or set of advance voting ballots.

(g) A voter may return such voter's advance voting ballot to the county election officer by personal delivery or by mail. Upon written designation by the voter, a person other than the voter may return the advance voting ballot by personal delivery or mail. Any such person designated by the voter shall sign a statement that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter.

(h) Violation of any provision of this section is a ~~class C misdemeanor~~ *severity level 9, nonperson felony*.

Sec. 4. K.S.A. 25-2409 is hereby amended to read as follows: 25-2409.

(a) Election bribery is conferring, offering or agreeing to confer, or soliciting, accepting or agreeing to accept any benefit as consideration to or from any person either to vote or withhold any person's vote, or to vote for or against any candidate or question submitted at any public election.

(b) *This section shall not apply to a business or organization that provides a product of value less than \$3 to any person who asserts that such person has voted, without regard to such voter's vote for or against any candidate or issue.*

(c) Election bribery is a severity level 7, nonperson felony.

Sec. 5. K.S.A. 25-2416 is hereby amended to read as follows: 25-2416.

(a) Voting without being qualified is knowingly ~~and willfully~~. ~~(a) voting or attempting to vote at~~ *without being qualified:*

(1) *In any election district when not a lawfully registered voter in such election district; or*

(2) *at any election by a person who is not a citizen of the United States or who does not otherwise meet the qualifications of an elector.*

~~(b) Voting or offering to vote more than once at the same election.~~

~~(c) Inducing or aiding any person to vote more than once at the same election.~~

(b) *Voting without being qualified or attempting to vote without being qualified is a class A misdemeanor or severity level 7, nonperson felony.*

(c) *The provisions of K.S.A. 2014 Supp. 21-5301(c), and amendments thereto, shall not apply to a violation of attempting to vote without being qualified pursuant to this section.*

Sec. 6. K.S.A. 25-2423 is hereby amended to read as follows: 25-2423.

(a) Election tampering is, while being charged with no election duty, making or changing any election record.

(b) Election tampering is a severity level ~~8~~ 7, nonperson felony.

Sec. 7. K.S.A. 25-2431 is hereby amended to read as follows: 25-2431.

(a) False impersonation of a voter is representing oneself as another *person, whether real or fictitious, and thereas thereby* voting or attempting to vote.

(b) False impersonation of a voter is a severity level ~~9~~ 8, nonperson felony.

Sec. 8. K.S.A. 2014 Supp. 25-2507 is hereby amended to read as follows: 25-2507. (a) "Poll book" means a book in which each voter may sign the voter's signature and a number is assigned by one of the clerks of the election board when the voter is given a ballot or set of ballots. If the county election officer determines that voters shall sign the poll book, such book shall also contain on each page the declaration prescribed by subsection (d).

(b) "Registration book" means: (1) A book or list containing the names and other information relating to registered voters. Registration books shall have the names entered therein before the same or copies

thereof are delivered to the supervising judges. Registration books may also contain blank lines on which each voter shall sign the voter's signature. If the county election officer determines that voters shall sign the registration book, such book shall also contain on each page the declaration prescribed by subsection (d); or

(2) a book meeting the requirements of K.S.A. 25-2507(b)(1), and amendments thereto; containing blank lines on which each voter shall sign the voter's signature; containing on each page the declaration prescribed by subsection (d); and containing the numbers assigned by one of the clerks of the election board when voters are given ballots or sets of ballots.

(c) "Party affiliation lists" means a list containing the names of all registered voters of a county who have lawfully designated a party affiliation.

(d) "Declaration" means the following: "I, the undersigned, declare under penalty of perjury that I am a registered voter in the state of Kansas, county of \_\_\_\_\_, that I have not signed a name other than my own in order to represent myself as any other registered voter, and that I am qualified to vote and have not previously voted and will not vote again ~~at this election~~ *in the election held on this date, in this or any other jurisdiction in the United States, for any offices or ballot issues.*"

Sec. 9. K.S.A. 25-2409, 25-2416, 25-2423 and 25-2431 and K.S.A. 2014 Supp. 25-1128 and 25-2507 are hereby repealed.

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

Approved June 8, 2015.

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